KF1055
.A21
RESERVE

JAN - 9

1996

Illinois Register

Rules of Governmental Agencies

Volume 20, Issue 01— January 05, 1996

Pages 1 - 657

Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017

published by
George H. Ryan
Secretary of State

Printed on recycled paper

TABLE OF CONTENTS
January 5, 1996 Volume 20, Issue 1

PROPOSED RULES

AGRICULTURE, DEPARTMENT OF
Grain Code
8 Ill. Adm. Code 281 1
Grain Dealers
68 Ill. Adm. Code 600, Repeal of 15
Illinois Grain Insurance Act
8 Ill. Adm. Code 285, Repeal of 25
Public Grain Warehouse And Warehouse Receipts Act
8 Ill. Adm. Code 505, Repeal of 33

CORRECTIONS, DEPARTMENT OF
Records Of Committed Persons
20 Ill. Adm. Code 107 54

ENVIRONMENTAL PROTECTION AGENCY
Procedures And Requirements For Determining Loan Priorities For Municipal Wastewater Treatment Works
35 Ill. Adm. Code 366 81

HEALTH FACILITIES AUTHORITY, ILLINOIS
Sale Of Bonds
77 Ill. Adm. Code 1400 91

HUMAN RIGHTS COMMISSION
Procedural Rules
56 Ill. Adm. Code 5300 97

NUCLEAR SAFETY, DEPARTMENT OF
Safe Operation Of Nuclear Facility Boilers And Pressure Vessels
32 Ill. Adm. Code 505 100

POLLUTION CONTROL BOARD
Organic Material Emission Standards And Limitations For The Chicago Area
35 Ill. Adm. Code 218 122
Organic Material Emission Standards And Limitations For The Metro East Area
35 Ill. Adm. Code 219 155

PUBLIC HEALTH, DEPARTMENT OF
Community Living Facilities Code
77 Ill. Adm. Code 370 187
Hospice Programs
77 Ill. Adm. Code 280 190
Hospital Licensing Requirements
77 Ill. Adm. Code 250 192

Illinois Home Health Agency Code
77 Ill. Adm. Code 245 214
Illinois Veterans' Homes Code
77 Ill. Adm. Code 340 217
Intermediate Care For The Developmentally Disabled Facilities Code
77 Ill. Adm. Code 350 220
Long-Term Care Assistants And Aides Training Programs Code
77 Ill. Adm. Code 395 223
Long-Term Care For Under Age 22 Facilities Code
77 Ill. Adm. Code 390 244
Sheltered Care Facilities Code
77 Ill. Adm. Code 330 247
Skilled Nursing And Intermediate Care Facilities Code
77 Ill. Adm. Code 300 250

STATE POLICE, DEPARTMENT OF
Sex Offender Registration Act
20 Ill. Adm. Code 1280 253

ADOPTED RULES

AGRICULTURE, DEPARTMENT OF
Animal Diagnostic Laboratory Act
8 Ill. Adm. Code 110 255
Animal Welfare Act
8 Ill. Adm. Code 25 265
Diseased Animals
8 Ill. Adm. Code 85 276
Equine Infectious Anemia Control
8 Ill. Adm. Code 116 290
Illinois Dead Animal Disposal Act
8 Ill. Adm. Code 90 294
Weights And Measures Act
8 Ill. Adm. Code 600 303

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF
Pay Plan
80 Ill. Adm. Code 310 308

EMPLOYMENT SECURITY, DEPARTMENT OF
Determination Of Unemployment Contributions
56 Ill. Adm. Code 2770 350

HEALTH FACILITIES AUTHORITY, ILLINOIS
Access To Information
2 Ill. Adm. Code 1901 358
Public Information, Rulemaking And Organization
2 Ill. Adm. Code 1900 364

INSURANCE, DEPARTMENT OF
Credit For Reinsurance Ceded
50 Ill. Adm. Code 1104 368

Letters Of Credit
50 Ill. Adm. Code 1102, Repeal of 386

SAVINGS AND RESIDENTIAL FINANCE, COMMISSIONER OF
Residential Mortgage License Act Of 1987
38 Ill. Adm. Code 1050 388

SECRETARY OF STATE
Illinois Safety Responsibility Law
92 Ill. Adm. Code 1070 398

STATE POLICE MERIT BOARD, DEPARTMENT OF
Procedures Of The Department Of The State Police Merit Board
80 Ill. Adm. Code 150 404

EMERGENCY RULES

HUMAN RIGHTS COMMISSION
Procedural Rules
56 Ill. Adm. Code 5300 410

HUMAN RIGHTS, DEPARTMENT OF
Procedural
56 Ill. Adm. Code 2520 445

PUBLIC HEALTH, DEPARTMENT OF
Community Living Facilities Code
77 Ill. Adm. Code 370 456
Hospice Programs
77 Ill. Adm. Code 280 467
Hospital Licensing Requirements
77 Ill. Adm. Code 250 474
Illinois Home Health Agency Code
77 Ill. Adm. Code 245 488
Illinois Veterans' Homes Code
77 Ill. Adm. Code 340 496
Intermediate Care For The Developmentally Disabled Facilities Code
77 Ill. Adm. Code 350 512
Long-Term Care Assistants And Aides Training Programs Code
77 Ill. Adm. Code 395 529
Long-Term Care For Under Age 22 Facilities Code
77 Ill. Adm. Code 390 535
Sheltered Care Facilities Code
77 Ill. Adm. Code 330 552
Skilled Nursing And Intermediate Care Facilities Code
77 Ill. Adm. Code 300 567

SECRETARY OF STATE
Regulations Under The Business Opportunity Sales Law Of 1995
14 Ill. Adm. Code 135 584
Regulations Under The Illinois Business Brokers Act Of 1995
14 Ill. Adm. Code 140 603

Regulations Under The Illinois Loan Brokers Act Of 1995
14 Ill. Adm. Code 145 629

STATE POLICE, DEPARTMENT OF
Sex Offender Registration Act
20 Ill. Adm. Code 1280 640

NOTICE OF PUBLIC HEARINGS

REVENUE, DEPARTMENT OF
Income Tax
86 Ill. Adm. Code 100 646

NOTICE OF PUBLIC INFORMATION

AFFORDABLE HOUSING PROGRAM, ILLINOIS
Annual Plan Of The Advisory Commission 647

ENVIRONMENTAL PROTECTION AGENCY
Listing Of Derived Water Quality Criteria 649

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received 657

ISSUES INDEX.....I-1

Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April 14, 1995 - Issue 15:	Through	March	31, 1995
July 14, 1995 - Issue 28:	Through	June	30, 1995
October 13, 1995 - Issue 41:	Through	September	30, 1995
January 12, 1996 - Issue 2:	Through	December	31, 1995 (Annual)

35 37 CH XL 01/97 19-020-00 EEC

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

Printed by authority of the State of Illinois
January 1996 – 760 – GA-557

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED RULES

1) Heading of the Part: Grain Code

2) Code Citation: 8 Ill. Adm. Code 281

3)

Section Numbers:	Proposed Action:
281.10	New Section
281.20	New Section
281.30	New Section
281.40	New Section
281.50	New Section
281.60	New Section
281.70	New Section
281.80	New Section
281.90	New Section

4) Statutory Authority: Grain Code [40 ILCS 40]

5) A Complete Description of the Subjects and Issues Involved: The Public Grain Warehouse and Warehouse Receipts Act [240 ILCS 15], the Illinois Grain Dealers Act [225 ILCS 630], and the Illinois Grain Insurance Act [240 ILCS 25] were combined into the Grain Code, effective January 1, 1996. These proposed rules are necessary to complement and implement the statutory provisions contained in the Grain Code.

6) Will this proposed rule replace an emergency rule in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rule does not affect units of local governments.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day comment period for receiving comments from the public will begin on the day the notice of rulemaking appears in the *Illinois Register*. Written comments should be sent to the attention of:

Debbie Wakefield
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield, IL 62794-9281
(217) 785-5713 or FAX: (217) 785-4505

Two public hearings to receive comments on the proposed rulemaking during

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED RULES

this 45-day comment period will be scheduled. A Notice of Public Hearing on Proposed Rules will be published in a future edition of the *Illinois Register* listing the dates and locations of the public hearings.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: The types of small businesses affected are small country elevators and feed mills who currently comply with the rules promulgated to the Illinois Grain Dealers Act, the Illinois Public Grain Warehouse and Warehouse Receipts Act, and the Illinois Grain Insurance Act. There are no small municipalities or not-for-profit corporations affected.

B) Reporting, bookkeeping or other procedures required for compliance: There are specific rules regarding the maintenance of daily position records and risk position records that are required for compliance with the Grain Code.

C) Types of professional skills necessary for compliance: Basic management and bookkeeping skills.

13) Regulatory agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED RULES

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER k: GRAIN

PART 281
GRAIN CODE

Section
281.10 Right of Examination and Working Conditions
281.20 Licensing: Application, Fees and Financial Ratios
281.30 Required Insurance
281.40 Required Records
281.50 Price Later Contracts
281.60 Warehouse Receipts
281.70 Types of Storage
281.80 Failure; Claims; Liquidation
281.90 Miscellaneous

AUTHORITY: Implementing and authorized by the Grain Code [40 ILCS 40].

SOURCE: Adopted at 20 Ill. Reg. _____, effective _____.

Section 281.10 Right of Examination and Working Conditions

Right of Examination and Working Conditions:

a) The licensee shall permit the Department to examine all warehouse facilities, records or inventory without prior notice. The licensee shall provide reasonable access to records at the location where records are maintained and shall provide assistance requested to perform the examination. The licensee shall reasonably remove risks or hazards that may be encountered during an examination. The licensee shall provide the necessary assistance to any authorized representative of the Department for the safe measurement and sampling of the grain inventory.

b) The licensee shall provide an acceptable work place at the location where the master books and records are maintained for any authorized representative of the Department to perform an examination.

Section 281.20 Licensing: Application, Fees and Financial Ratios

a) Form and Content of Application
All applications for a license shall be filed on forms provided by the Department. The application shall be signed by the applicant and shall include the following information, without limitation:
1) Whether the applicant is a corporation, cooperative, partnership, individual or other business entity;
2) The major commodity, in terms of bushels, which the applicant proposes to buy;
3) The general manager's name and the name(s) of those persons responsible for grain operations at each location; and
4) The current business address of the licensee.

b) Grain Dealer Certificate Fee

The fee for a certificate of a grain dealer license shall be $25.00.

c) Criteria for Licenses and Certificates
1) A grain dealer license or a location certificate for a grain dealers license is required for each individual address at which any of the following applies:
A) Grain is received from producers and weighed across scales which are under the licensee's control.
B) Contracts are negotiated and executed for the purchase of grain.
C) Settlement or payment is made for grain purchased from Illinois producers.
D) Records relating to any of these transactions are maintained.
2) A grain warehouse license is required for each individual address at which any of the following applies:
A) Grain is received from depositors for storage and weighed across a scale.
B) Warehouse receipts are issued or grain storage records are maintained.
3) A truck owned or leased by a grain dealer is required to carry a certificate showing that a grain dealer license is held by owner or lessee. A truck which is hired by the grain dealer to haul grain is exempt from the certificate requirement.
4) Multiple Warehouse Locations
A common license may be issued for the operation of two or more warehouse facilities if the warehouseman operates each warehouse in conjunction with the other, all functioning under the same name, located in the same geographical area, operating out of a principal office, keeping the same set of records and having the same management.

d) Filing for Extensions
The application for extension and preliminary financial statement must be received by the Department prior to the close of business on the date of current license's expiration.
If the licensee is also a warehouseman, the applicant must also submit a summary of the applicant's grain inventory and obligations.
The applicant shall submit an audited financial statement no later than the date the extension expires.
The applicant shall be required to provide an explanation as to why the extension is needed.

e) Class II/Incidental Financial Statement Form
The Department shall request that an applicant for an incidental grain

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED RULES

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED RULES

dealer or Class II warehouse license submit a financial statement which may be on a form prescribed by the Department.

f) Reduction of Filing Period for License Renewal
When the Department determines that an applicant has failed to meet the financial requirements of Section 5-25(b) of the Grain Code, the Department shall reduce the filing period for an application for renewal of a license to no less than 60 days after the licensee's fiscal year end upon giving required notice.

g) Liquid assets shall include accrued storage, drying and price later service charges.

Section 281.30 Required Insurance

a) Before a license shall be issued to the applicant or the licensed storage capacity is increased, the applicant/licensee shall file with the Department a certificate of insurance which shall indicate that grain is insured for its full market value and that the licensee is the named beneficiary on the policy.

b) The legal name and address of the licensee and location of each warehouse in the insurance policy shall correspond with the information given in the application.

Section 281.40 Required Records

a) Daily Position Record
   1) A daily position record shall be maintained on a daily basis for each commodity. Postings for each day shall reflect actual changes in inventory for that business day. The daily position record shall provide for a separate accounting for the following:
      A) Summary stock record showing total bushel amount of grain received, grain loaded out of the warehouse, adjustments, total grain inventory in the warehouse, redeposited grain and total of the grain inventory in the warehouse plus redeposited grain.
      B) Negotiable warehouse receipts obligations, total bushels of receipts issued and total bushels of receipts cancelled.
      C) Non-negotiable warehouse receipts obligations, total bushels of receipts issued and total bushels of receipts cancelled.
      D) Non-receipted storage obligations including total bushel increases and total bushel decreases.
      E) Non-receipted company owned grain including total bushel increases and total bushel decreases.
      F) Inventory bushel adjustments to the daily position record as set forth in subsection (a)(2) below.
   2) Warehousemen may make adjustments to their inventory as long as documentation is available to substantiate the following types of adjustments:
      A) Adjustments to shrink calculations;

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED RULES

      B) Adjustments for error correction;
      C) Adjustments based upon Certified Public Accountant inventories;
      D) Adjustments based upon weighed inventories.
   3) Licensees must maintain a master daily position record combining all locations, inventory and storage obligations in the case of multiple locations.
   4) Actual grain inventories must at all times be in balance with the summary stock value as indicated in the daily position record.

b) Long/Short Position Record
Each grain dealer shall maintain a master long/short risk position record combining all marketing activity of all locations each business day. The risk position record shall at a minimum contain the net position, grain owned, grain sold and shipped on price later contracts which have not been priced, open cash purchase contracts including purchase contracts issued and purchase contracts cancelled, all futures purchased or sold, grain in transit not sold, grain owned and stored in other grain warehouses, grain purchased and received on price later contracts which have not been priced, open cash sales contracts including sales contracts issued and sales contracts cancelled, and any options purchased or sold. The position record shall also contain a comments section. The grain dealer shall note in the comments section any action(s) taken to regain a balanced position as required in Section 10-10 of the Code. Such comments shall at a minimum indicate bushel amount(s), name of buyer/seller/broker and approximate time of transaction(s).

c) Scale Tickets
   1) Scale tickets shall be pre-numbered by an independent printer or in the case of computer generated scale tickets, numbered consecutively by the computer record-keeping system.
   2) Scale tickets shall be issued in numerical sequence and a copy shall be filed numerically. All scale tickets must be accounted for. A separate series of scale tickets shall be used for each scale under the licensee's control over which grain is received.

d) Cross Reference
All accounts and records relating to grain operations are to be properly cross-referenced. An adequate system of cross-reference shall exist beginning at the time of delivery, clearly indicating the current status of the grain and changes in that status, and indicating the final disposition of the grain.

e) Settlement and/or Receiving Sheets
Settlement and/or receiving sheets shall either be pre-numbered by an independent printer or in the case of computer generated sheets, numbered consecutively by the computer record-keeping system. The licensee shall use settlement and/or receiving sheets in numerical sequence and account for all settlement and/or receiving sheets. Settlement and/or receiving sheets shall contain evidence of the method of settlement, such as check number, warehouse receipt number,

or other evidence of settlement. Settlement and/or receiving sheets, both open and closed, shall be filed in a manner to be readily available for examination purposes, such as alphabetical or numerical. Where price later contracts are used, the settlement/receiving sheet(s) shall clearly indicate the price later contract number(s) against which grain is to be applied.

f) Safeguarding and Retention of Records
The licensee shall provide a secure place at each licensed location and at the principal office for storage of all records pertaining to the operation of the licensee. Such records shall be kept current and made available for inspection by Department personnel at the principal office of the licensee and at each licensed location. Such records shall be retained by the licensee for a period of not less than two years from the closing date of any transaction.

Section 281.50 Price Later Contracts

a) Prescribed Form
A price later contract executed between a licensee and a producer shall be on a prescribed form which has been approved by the Department. The prescribed form shall include, but need not be limited to, the following information:
1) The legal name and address of the licensee;
2) The legal name of the seller;
3) The bushel amount of grain to be covered by the contract;
4) The grade and commodity of grain to be covered by the contract;
5) The date(s) of delivery of the grain to be covered by the contract;
6) The method of pricing;
7) A section to indicate service charges, advances or other terms;
8) The following statements:
A) That title to the grain covered by this contract passes to buyer upon delivery;
B) Buyer is required to maintain grain assets equal to 90% of its price later obligations;
C) Price later grain is not stored for the seller. This contract is regarded as a grain dealer claim. The maximum coverage afforded by the Illinois Grain Insurance Fund is 85% of the valid grain dealer claim amount up to a maximum of $100,000 per claimant. A valid grain dealer claim includes all groups of contracts that in any way can be related or tied to a person or entity whether in full or in part;
D) This contract shall cease to be the basis of a valid claim against the Illinois Grain Insurance Fund:
i) Upon the expiration of 160 days after the grain sold under this contract is priced; or
ii) Upon the expiration of 270 days after the latter of

the execution of this contract or the date of delivery of the grain sold under this contract;
E) The execution of subsequent price later contracts by the producer and the licensee for grain previously covered by a price later contract shall not extend the coverage of a claim beyond the original 270 days.
9) A section indicating the signature and date of signature for both the seller and buyer's representative;
10) The reverse of the contract shall contain a schedule of settlements for the grain to be covered by the contract.

b) Printing
A price later contract shall be printed by a person authorized to print such contracts by the Department. The Department shall authorize persons to print price later contracts if they are printed in accordance with the Grain Code and the rules of this Part and if they have posted the required bond. The printer shall provide a surety bond in the sum of $5,000 payable to the Illinois Department of Agriculture, Director of the Department of Agriculture as Trustee. All price later contracts shall be:
1) Printed only for licensees.
2) Numbered consecutively either at the time of printing or through the control of a computer generated system.
3) A complete record of contracts printed shall be retained by the printer for 5 years, showing for whom printed, the number printed, and the consecutive numbers that were printed on the contracts.

c) Separate Series
Each location at which price later contracts are issued shall have its own identifiable series of price later contracts.

d) Requirements for Use of Price Later Contracts
1) Only one commodity per contract.
2) The bushel quantity of a price later contract may not be increased.
3) Price later contracts are to be executed in triplicate with the original copy maintained by the dealer.
4) The dealer shall maintain the updated and signed contracts in numerical order.
5) No storage charges shall be made with respect to any commodity purchased by price later. A service charge may be assessed.
6) A rollover shall be documented with the initials of both parties and dated by both parties.
7) Grain assets required to meet ninety percent (90%) of outstanding price later obligations do not have to be commodity specific.

e) Pre-delivery Price Later
When a price later contract is used as a pre-delivery contract, the original bushel amount may be adjusted down to reflect the actual amount of grain delivered against the contract.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED RULES

Section 281.60 Warehouse Receipts

a) Warehouse Receipt Forms
Every warehouse receipt, in addition to complying with the requirements of Article 7 of the Uniform Commercial Code, shall have the following:
1) Class of warehouse (I or II).
2) The legal name of the entity operating the warehouse.
3) If a license covers multiple locations, the receipt must indicate at which location delivery was made and date of delivery.
4) The kind and the grade factors of the grain as prescribed by the Official Grain Standards (7 CFR 810, June 1993).
5) The number of bushels stored.
6) The words "Negotiable" or "Non-negotiable" according to the nature of the receipt, conspicuously printed or stamped thereon.

b) Printing
1) Warehouse receipts shall be printed by a person authorized to print such receipts by the Department. The Department shall authorize persons to print warehouse receipts if they are printed in accordance with the Grain Code and the rules of this Part and if they have posted the required bond. The printer shall provide a surety bond in the sum of $5,000 payable to the Illinois Department of Agriculture, Director of the Department of Agriculture as Trustee. All warehouse receipts shall be:
A) Printed only for licensees.
B) Numbered consecutively either at the time of printing or through the control of a computer generated system.
C) A complete record of receipts printed shall be retained by the printer for 5 years, showing for whom printed, the number printed, and the consecutive numbers that were printed on the receipts.
2) A duplicate copy of any invoice rendered for printing warehouse receipts shall be forwarded by the printer to the Department at the same time as billing is made to the warehouseman. The invoice shall show for whom printed, the consecutive numbers that were printed on the receipts, type of receipt (whether negotiable or non-negotiable), and number of receipts printed.

c) Warehouse Receipts as Collateral
1) Warehousemen issuing negotiable warehouse receipts for collateral purposes shall properly endorse such receipts on the reverse to the secured party.
2) The warehouseman's obligation represented by an outstanding warehouse receipt endorsed for collateral purposes shall not be cancelled until the warehouseman has the outstanding receipt back in his possession and it has been properly cancelled. The warehouseman may cancel the outstanding obligation represented by a warehouse receipt in lieu of having the actual receipt in his possession, provided that the secured party has presented the

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED RULES

warehouseman with a written confirmation of their release of said warehouse receipt. The confirmation shall at a minimum contain the date of release, the receipt number(s) and the signature of the secured party warehouse receipt holder. The confirmation may be by letter or facsimile transmission.

d) Issuance and Cancellation
1) A negotiable or non-negotiable warehouse receipt shall be issued by the warehouseman to the depositor, on demand by the depositor, for grain delivered into storage. In the case where no warehouse receipt was originally issued to the depositor, except for grain bank accounts, the warehouseman shall issue a warehouse receipt on such stored grain prior to the next harvest season. In the case of a Class II warehouseman, only non-negotiable warehouse receipts shall be issued.
2) On the date that a warehouse receipt is cancelled, such receipt shall be plainly marked across its face with the word "cancelled". The cancelled receipt shall also be marked with the date and the name of the person cancelling the same, the means by which the receipt was cancelled (i.e., check number, monetary wire transfer or delivery from storage) and shall thereafter be void. The daily position record shall accurately reflect the date of cancellation of all warehouse receipts.

e) Numbering of Receipts
If warehouse receipts are to be issued from multiple locations or for specific commodities, the warehousemen shall maintain separate numerical series of warehouse receipts for each location or commodity. Such receipts must have a six digit number with the first (leftmost) digit being a numeric prefix to indicate the specific location or commodity.

Section 281.70 Types of Storage

a) Permanent Storage
1) The Department shall issue a license for permanent storage capacity or approve the application to amend the licensed permanent storage capacity of a licensee provided that all of the licensing requirements to obtain, maintain or amend a license as set forth in the Code and the rules of this Part have been met and provided the warehouse meets the following requirements:
A) The grain storage structures are owned or leased by the applicant/warehouseman.
B) Grain is protected from weather elements (i.e., a floor of concrete, asphalt, wood or metal).
C) Each grain storage structure is covered by a permanent, waterproof roof.
D) The grain storage structure has rigid sidewalls (e.g., concrete, wood or metal).
E) All grain storage structures that are connected by legs,

pipes, belts or other fixed devices which transport grain are included in the licensed space.

2) Prior to increasing or decreasing the licensed storage capacity, the licensee shall submit an application to amend the licensed storage capacity and provide the following:
   A) The legal name and address of the entity;
   B) Description of each storage structure that is being added to or removed from the licensed storage capacity;
   C) The storage capacity of each warehouse structure proposed to be added or deleted;
   D) A certificate indicating that insurance coverage has been obtained on all space added to the licensed storage capacity; and
   E) An amendment fee of $50.

b) Temporary Storage
   1) Extensions of temporary storage approval may be granted by the Department provided:
      A) The warehouseman demonstrates that there is good cause or an extension.
      B) The request for extension is received at least one week in advance of the expiration date.
   2) Extensions for the use of temporary storage shall be granted in increments not to exceed 90 days.

c) Emergency Storage
   1) The Department shall approve the use of emergency storage provided the warehouseman demonstrates that an emergency exists.
   2) Emergency storage is considered to be any storage which does not meet the criteria of permanent or temporary storage (i.e., uncovered ground piles, structures without rigid sidewalls, etc.).
   3) Emergency storage approval shall not exceed three months. The length of approval shall be dependent on the ability of the warehouseman to maintain the quantity and quality of the grain in storage considering weather conditions, exposure to weather elements, security, etc.

Section 281.80 Failure; Claims; Liquidation

a) In the event of a failure, notices shall contain the following information and be posted:
   1) A notice shall be posted at all facilities of the licensee by the Department.
   2) The notice shall be posted on all office locations of the licensee.
   3) The notice shall indicate the name of the licensee, the grain warehouse license number and the grain dealer license number.
   4) The notice shall indicate the effective date the license was either terminated, suspended, revoked, surrendered or renewal was

denied.
   5) The notice shall indicate that the licensee has been ordered to cease and desist doing business as a licensed grain warehouse and grain dealer in the State of Illinois.
   6) The notice shall indicate that persons may contact the Illinois Department of Agriculture, Bureau of Warehouses, P.O. Box 19281, Springfield, IL 62794-9281; (800)654-0082.

b) Liquidating Licensee
   1) Procedure for determining the value of grain claims in a failed licensee.
      The Department shall use an average of the cash bid prices, as solicited from grain dealers located within the market area of the failed licensee and the actual cash bid that would have been offered by the failed licensee on the date of closing, for all grain stored or unpriced as indicated by the evidence of storage or sale of grain, less transportation, handling costs, and discounts. The schedule of discounts which include, but are not limited to, moisture, foreign material, test weight, heating, musty, sour, or commercially objectionable foreign odor, heat damage, weevil damage, splits and damaged kernels of the failed licensee shall be used by the Department to determine discounts to be assessed against the valid claimant.
      For all grain delivered, sold, and priced prior to the date of failure, the price per bushel shall be that which has been agreed upon by the failed licensee and the claimant.
   2) Procedure for the sale of grain from a failed warehouse and/or grain dealer.
      The Department shall solicit at least three competitive bids from within the market area of the failed licensee. The Department shall solicit quotations for market discounts (i.e., moisture, foreign material, test weights, heating, musty, sour or commercially objectionable foreign odors, heat damage, weevil damage, splits and damage to the kernels) from each bidder who submits a bid. The Department shall consider the following factors in determining who shall purchase the grain:
      A) The bid price for the grain.
      B) Transportation costs to be deducted from the bid price for the grain.
      C) Market discounts that will be applied against the bid price for the grain.
      D) The amount of the grain that the bidder can take delivery of during the contracted time period for transporting the grain.

c) Claims Procedure
   1) Claimants shall file their claims at the location indicated in the public notice or mail claims to the Department of Agriculture, Bureau of Warehouses, P.O. Box 19281, Springfield, IL 62794-9281.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED RULES

2) Claim forms will be made available at the location(s) of the failed licensee.
3) All scale tickets, settlement sheets, warehouse receipts and contracts must be submitted with the claim.
4) All original warehouse receipts shall be submitted to the Department prior to receiving payment of a claim.
5) All claims must be signed by claimant whose name appears on the claim.

Section 281.90 Miscellaneous

a) Business Hours
Temporary interruptions of the posted business days and hours shall be posted in a conspicuous place at the place of business. The Department may grant seasonal business days and hours to those businesses which operate only during specific periods. Any deviations on business hours pursuant to Section 5-25(a)(2) of the Grain Code shall be approved by the Department.

b) Grain Bank
1) Grain deposited for grain bank purposes shall be accounted for on a separate record, with such record containing the same informational requirements as a non-negotiable warehouse receipt, or on a non-negotiable warehouse receipt listing each lot of grain deposited and withdrawn showing a net balance.
2) When a non-negotiable warehouse receipt is issued for grain in grain bank, the reverse side of the original warehouse receipt shall be used to record withdrawals and additional deposits and the warehouse receipt shall be retained by the warehouseman.
3) No deposit shall be recorded which would increase the balance of the grain in the grain bank to an amount which would exceed the original net bushels on the face of the non-negotiable warehouse receipt.

c) Posting Bin Chart and Diagram
The warehouseman shall post in a conspicuous place in the office of each warehouse a bin chart and diagram, as supplied by the Department, showing the location, bin number and capacity of all bins and sections of the warehouse.

d) Transfer and Redeposit
If a warehouseman issues warehouse receipts to other warehousemen for redeposited grain, the warehouseman shall issue a non-negotiable receipt to the warehouse where the grain is redeposited.

e) Grain Dealer Examination Fee
The first examination performed each calendar year shall be billed at a rate of .00015 x the total dollar amount paid to producers the last fiscal year with a minimum fee of $75 and a maximum of $200. When more than one location is included in the exam, each additional certificate of a license shall be billed $25. For each subsequent examination in a calendar year, the grain dealer shall pay a $25 fee

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED RULES

for each license examined.

f) Collateral and Guarantees
Pursuant to Section 15-30(d) of the Grain Code, the Department may require that an applicant or licensee provide the Department with personal, corporate, or other related person guarantees. The Department may require that a guarantee be executed by any related party to an applicant or licensee. All guarantees shall be executed for a minimum of $500,000. Guarantees shall be executed for a maximum amount not to exceed the dollar value of annual grain purchases or the dollar value of the highest bushel storage obligation during the past year.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Grain Dealers

2) Code Citation: 68 Ill. Adm. Code 600

3)

Section Numbers:	Proposed Action:
600.10	Repealed
600.20	Repealed
600.30	Repealed
600.40	Repealed
600.50	Repealed
600.60	Repealed
600.70	Repealed
600.80	Repealed
600.90	Repealed
600.100	Repealed
600.110	Repealed

4) Statutory Authority: Illinois Grain Dealers Act [225 ILCS 630]

5) A Complete Description of the Subjects and Issues Involved: Pursuant to P.A. 89-0287, the Illinois Grain Dealers Act is repealed effective January 1, 1996. The Department of Agriculture has combined the provisions of the Public Grain Warehouse and Warehouse Receipts Act, the Illinois Grain Dealers Act, and the Illinois Grain Insurance Act into the Grain Code, effective January 1, 1996. A Notice of Proposed Rules for the Grain Code is published in this issue of the Illinois Register.

6) Will this proposed repealer replace an emergency rule in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed repealer contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rule does not affect units of local governments.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will be granted for receiving comments from the public. This comment period will begin on the day the notice of rulemaking appears in the Illinois Register. Comments should be sent to the attention of:

Debbie Wakefield
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield, IL 62794-9281

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

217/785-5713 or FAX: 217/785-4505

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small country elevators and feed mills (small municipalities and not-for-profit corporations are not affected).

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Repealer begins on the next page.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER II: DEPARTMENT OF AGRICULTURE

PART 600
GRAIN DEALERS (REPEALED)

Section
600.10 Definitions
600.20 Application of Rules
600.30 Application for License
600.40 Surety Bond or Certificate of Deposit
600.50 Fees
600.60 Right of Examination, Insurance and Required Records
600.70 Posting of Notices; Business Hours
600.80 Price Later Contracts
600.90 Printing of Price Later Contracts
600.100 Settlement Sheets
600.110 Scale Tickets

AUTHORITY: Implementing and authorized by the Illinois Grain Dealers Act (Ill. Rev. Stat. 1987, ch. 111, par. 301.01 et seq., as amended by P.A. 85-1162, effective August 12, 1988.)

SOURCE: Rules and Regulations for The Grain Dealers Act, filed January 5, 1973; effective January 15, 1973; amended November 16, 1977, effective December 1, 1977; 3 Ill. Reg. no. 19, p. 3, effective May 11, 1979; codified at 5 Ill. Reg. 10572; amended at 8 Ill. Reg. 850, effective January 5, 1984; amended at 13 Ill. Reg. 3665, effective March 13, 1989; repealed at 20 Ill. Reg. _____, effective _____.

Section 600.10 Definitions

Terms defined for the purpose of administering the Act and these rules, unless context requires otherwise:

a) "Date of Delivery of Grain to the Dealer" means the date that such grain is physically delivered to the dealer for the purpose of sale to the dealer. It does not mean the date that the grain is delivered for the purpose of storage; if the grain is in storage then the delivery date is the date the Warehouse Receipt is cancelled, if a Warehouse Receipt was issued. If no Warehouse Receipt was issued, the date of delivery shall be the date the purchase price is agreed upon.

b) "Daily Grain Transaction Report" is a record of the daily transactions of a grain dealer showing the amount of all grain received, shipped, and on hand at day's end.

c) "Act" means the Illinois Grain Dealers Act (Ill. Rev. Stat. 1987, ch. 111, par. 301.01 et seq., as amended by P.A. 85-1162, effective August 12, 1988).

d) "Price Later Contract" means a complete written contract subject to

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

Sections 9 and 10 of the Act and to Sections 600.80 and 600.90 of these rules which shall constitute a change of ownership when the formula for determining the price has been agreed upon and the grain is delivered. Open Price Contract, Deferred Price Contract, Delayed Price Contract, and Basis Contract or similar agreements shall be considered a Price Later Contract.

(Source: Amended at 13 Ill. Reg. 3665, effective March 13, 1989)

Section 600.20 Application of Rules

a) These rules apply to all persons who buy grain from producers in the State of Illinois and are subject to change and modification as the Department may from time to time deem advisable, and to such exceptions as may be considered just and reasonable in individual cases.

b) Any person who is engaged in the business of buying grain from producers for reasons other than resale, milling or processing, shall not be considered to be a grain dealer unless substantial amounts of the grain purchased are used for resale, milling or processing, and not for the reason first purchased, and provided also that:
   1) The reason for the purchase of the grain is shown on a contract with the producer, and/or
   2) the buyer can demonstrate that any grain not used for the reason first purchased did not meet the quality standards of its intended use or those agreed upon by buyer and seller.
   3) Should the buyer elect to dispose of grain referenced in (2) of this rule, such disposition must be made through a licensed grain dealer.

c) Every grain dealer domiciled outside the State of Illinois, who does not maintain an office or place of business in Illinois, who buys grain from producers in Illinois, shall be covered under the Act and these rules for that part of his business that comes from Illinois.

Section 600.30 Application for License

a) The application shall be accompanied by a current financial statement, which has been examined by an accountant licensed by the Department of Professional Regulation or an entity permitted to engage in the practice of public accounting under Section 15 of "An Act to regulate the practice of public accounting and to repeal certain acts therein named" (Ill. Rev. Stat. 1987, ch. 111, par. 5516). The accountant must certify that the balance sheet, income statement, statement of cash flows , and statement of retained earnings or changes in owner's equity have been examined in accordance with generally accepted auditing standards including such tests of the accounting records and such other auditing procedures as were considered necessary in the circumstances, and that these statements present fairly the financial

position and the results of operations and changes in cash flows for the year then ended in conformity with generally accepted accounting principles applied on a consistent basis. For a financial statement to be current it must be received by the Department within five months of the financial statement date.

b) When any grain dealer changes the address of his permanent business location, he shall file within 30 days an amendment to his license application on a form provided by the Department.

c) All requirements for license renewal are due within 90 days of the grain dealer's fiscal year close, except that the Department may grant extensions of up to 60 days thereafter if the application for the extension is made prior to the renewal date of the license, or prior to the time that any extension granted under this rule expires, and the application for the extension is made by the applicant, in a form approved by the Department. Also, a document indicating preliminary financial condition of the applicant shall be submitted by the certified public accountant and shall accompany the form. If the required financial statement of the applicant has been received by the Department, the application for extension shall be made by the applicant. If review by the Department indicates the individual appears he may meet the requirements for license, then an extension may be granted.

d) No license shall is issued to any applicant who fails to complete the submission of all license requirements within five months of the date of the applicant's financial statement.

e) The audit report of any grain dealer must include all financial information material to the complete legal entity.

f) The accountant that prepares the financial statement is responsible for adding any notes to the financial statements required for full disclosure and fair presentation according to generally accepted accounting principles.

Section 600.40 Surety Bond or Certificate of Deposit

a) Before a license is issued to the applicant, he shall file with the Department a surety bond or certificate of deposit in accordance with Section 3 of the Act.

b) Procedures for the cancellation, collection, control and distribution of surety bonds, certificates of deposit and/or pledged security shall be as established in 8 Ill. Adm. Code 3.

c) Every bond so filed shall contain a provision that it may not be cancelled by the principal or surety company, except on 60 days prior notice in writing, by certified mail, to the Director at his Springfield, Illinois, office (see 8 Ill. Adm. Code 3: Subpart A for information on cancellation of bonds). The cancellation shall not affect the liability accrued or which may accrue under such bond before the expiration of the 60 days.

d) If, at the end of the 60 days prior notice of cancellation, the grain

dealer has not replaced the bond, he shall immediately notify all of the producers from whom he is currently buying grain and the holders of "price later contracts" that his bond has been cancelled and that he is no longer a licensed grain dealer.

e) The effective date of the bond shall be the date that it is issued.

f) During the first year of operation, if a grain dealer has purchased an amount of grain equal to his initial estimate, he shall re-adjust the estimate and immediately furnish the Department with sufficient additional bond or certificate of deposit to cover the additional projected purchases.

g) If the applicant applies for waiver of all or any part of bond in excess of the $25,000 minimum, the Department may require the completion of any supplemental schedules in such form as may be approved by the Department, and/or insurance on the fixed assets and on the grain inventory. In determining if supplemental schedules are required, the Department will consider past history of the dealer, debt equity ratio, current ratio, profit or loss, trends in the dealer's business and any other factors pertinent to the decision in each case.

h) The date after which liability covered by a certificate of deposit ceases to accrue will be determined by the Department.

i) If a reduction in the amount of a certificate of deposit is permitted by the Department, such reduction shall be made by submitting a new certificate of deposit in the smaller amount approved by the Department in accordance with 8 Ill. Adm. Code 3.80.

Section 600.50 Fees

The Department shall charge and collect for the first examination or inspection per calendar year a fee of 0.015% (15/1000 percent) rounded to the nearest $1 of the last fiscal year's purchases of grain from producers, with a minimum fee of $75 and a maximum fee of $200. The Department shall charge and collect for each additional examination or inspection a fee of $25.

Section 600.60 Right of Examination , Insurance and Required Records

a) Each grain dealer shall permit any officer or authorized representative of the Department to enter all locations listed on the application of the applicant or any location suspected of being part of the applicant's business operation and inspect or examine all contents, facilities, equipment, records, books and accounts relating thereto. Such inspection and/or examination may be made on any business day, during usual business hours. The grain dealer shall provide the necessary assistance required for any inspection or examination made in accordance with the Act and these rules.

b) A consecutive page numbered permanent record of purchase receipts, shipments and total inventory shall be maintained and these records shall be used to maintain the Daily Grain Transaction Report. This

report must clearly indicate all grain which has been sold by means of a "price later contract." In cases where the grain dealer is also a licensed warehouseman, the Daily Position Report can be used in lieu of the Daily Grain Transaction Report and must be a consecutive page numbered permanent record.

c) The grain dealer must give the producer a document indicating the weight, grade, dockage, and the price of the grain upon settlement.

d) Regardless of the type of record system used, it shall be maintained accurately and kept up-to-date daily. All records shall be maintained for a period of not less than one year.

e) To retain his license, a grain dealer must maintain a liquid position throughout the year. There shall be no evidence of post dated checks, checks returned by a bank due to non-sufficient funds, or that a producer has been asked not to cash a grain dealer's check until a specified date. Any evidence that indicates a non-liquid position shall be grounds for the suspension or revocation of the grain dealer's license.

f) The Department may require the grain dealer to report the number of bushels and kind of grain under price later contract at the end of any month. Such report shall be requested by the Department prior to the end of the month in question and shall be forwarded to the Department by not later than the 10th day of the following month.

g) The Department may require the grain dealer to provide a current profit and loss statement and balance sheet; the total bushels of grain and kind sold by means of price later contracts; a Daily Grain Transaction Report; a report of hedging activities; and a review of the activities of the hedging account for the past 60 days. Such information will be furnished to the Department within 10 days upon request.

h) Any person buying grain in the field from producers for a grain dealer must have a certificate from the grain dealer authorizing him to do so.

i) To retain the license, a grain dealer shall carry provisional stock insurance on all company-owned grain stored within the grain dealer's facilities.

Section 600.70 Posting of Notices; Business Hours

a) The Department may from time to time require the grain dealer to conspicuously display certain notices or other information as the Department may deem necessary.

b)

1) All grain dealers shall be open for business for not less than 1/2 hour before the opening of the Chicago Board of Trade until 1/2 hour after the closing of the Chicago Board of Trade, unless other business hours have been approved by the Department. Application for other business hours must be made on forms provided by the Department, and if approved, must be posted in

each business office used by the dealer. However, business days and hours inconsistent with those stated in the Act shall not be approved for licensees engaged in the practice of price later contracting.

2) Temporary interruptions of the posted business days and hours shall be posted in a conspicuous place at the place of business.

3) The Department may grant seasonal business days and hours to those businesses which operate only during specific periods (example: harvest time).

4) Should the Department commence an audit on the posted business day, the business must remain open between 8:00 A.M. and 4:00 P.M. on each day considered a normal work day for employees of the Department.

Section 600.80 Price Later Contracts

a) A "price later contract" shall be made out at least in triplicate on a form prescribed by the Department. One copy shall be given to the producer and one copy kept for the grain dealer's files, the third copy shall be filed in numerical order at the dealer's place of business so that it can be used in the Department's normal examination of the dealer's records unless otherwise directed by the Department. Both the producer and the grain dealer shall sign this agreement within 30 days after completion of delivery of any given lot of grain. If the grain has been priced and paid for within this 30 day period, a price later contract does not need to be executed. A lapse of more than 30 days in delivery shall constitute the end of delivery of a lot of grain for purposes of complying with this rule. This contract must contain a clear agreement between the two parties involved as to how the price will be determined.

b) When reprinting contracts, the following statements shall be printed on the price later contract:

1) Title to the grain covered by this contract passes to buyer upon delivery;

2) Buyer is required to maintain liquid assets equal to 90% of its price later obligations; and

3) Price later grain is not stored for the seller. This contract is regarded as a grain dealer claim. The maximum coverage afforded by the Illinois Grain Insurance Fund is 85% of the valid grain dealer claim amount up to the maximum of $100,000 per claimant. A valid grain dealer claim is defined as including all groups of contracts that in any way can be related or tied to a person or entity whether in full or part (See Section 600.10(d) for contracts included in this group).

c) The document representing grain delivered to the grain dealer shall clearly indicate that the grain is sold unless it has been sold by means of a price later contract. In such case, the document will be marked "Sold Grain: Price Later". This document does not replace or

substitute for any other requirement of the Act or these rules, unless the grain is delivered into storage as provided in The Public Grain Warehouse and Warehouse Receipts Act (Illinois Revised Statutes, Chapter 114, paragraph 214.1 et seq.)

d) Any grain inventory used as part of the 90% price protection must be fully insured at all times for its full market value against loss or damage by fire, lightning, or tornado, cyclone, explosions, windstorm, and such other perils as may be required by the Department.

Section 600.90 Printing of Price Later Contracts

A price later contract shall be printed by an agency, authorized to print such contracts by the Department (Section 9 of the Act). The Department shall authorize agencies to print price later contracts provided they agree to print contracts in accordance with this Section and provided they submit the required surety bond. The agency shall provide a *surety bond to the Department in the sum of $5,000,* payable to the People of the State of Illinois, Director of Agriculture as trustee, *to guarantee the faithful compliance with the following provisions and requirements* (Section 9 of the Act):

a) All price later contracts shall be printed as prescribed in Section 600.80 and Section 9 of the Act.

b) Price later contracts shall be *printed only for those* persons *having a valid Illinois Grain Dealer's License* (Section 9 of the Act).

c) *All prices later contracts shall be numbered consecutively* (Section 9 of the Act).

d) *A complete record of these contracts* printed *shall be retained* by the printing agency for 5 years, *showing for whom printed,* the number printed, *and the consecutive numbers printed thereon* (Section 9 of the Act).

e) *A duplicate copy of all invoices rendered for printing price later contracts* shall be forwarded by the printing agency to the Department at the same time as billing is made to the grain dealer. The *invoice will show* for whom printed, *the consecutive numbers printed* on the price later contracts and *number* of contracts *printed* (Section 9 of the Act).

Section 600.100 Settlement Sheets

If a grain dealer uses settlement sheets, the dealer shall comply with the requirements of this Section. Settlement sheets shall be prenumbered by the printer. The grain dealer shall use settlement sheets in numerical sequence and account for all settlement sheets. Settlement sheets shall contain evidence of the method of settlement, such as check number, warehouse receipt number, or other evidence of settlement. Settlement sheets, both open and closed, shall be filed in a manner to be readily available for examination purposes, such as alphabetical or numerical.

Section 600.110 Scale Tickets

Scale tickets shall be prenumbered by the printer. The grain dealer shall issue scale tickets in numerical sequence, and a copy of the scale ticket shall be filed numerically. The grain dealer shall account for all scale tickets.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Illinois Grain Insurance Act

2) Code Citation: 8 Ill. Adm. Code 285

3) Section Numbers: Proposed Action:

285.10	Repealed
285.20	Repealed
285.30	Repealed
285.40	Repealed
285.50	Repealed
285.60	Repealed
285.70	Repealed
285.80	Repealed
285.90	Repealed
285.100	Repealed
285.110	Repealed

4) Statutory Authority: Illinois Grain Insurance Act [240 ILCS 25]

5) A Complete Description of the Subjects and Issues Involved: Pursuant to P.A. 89-0287, the Illinois Grain Insurance Act is repealed effective January 1, 1996. The Department of Agriculture has combined the provisions of the Public Grain Warehouse and Warehouse Receipts Act, the Illinois Grain Dealers Act, and the Illinois Grain Insurance Act into the Grain Code, effective January 1, 1996. A Notice of Proposed Rules for the Grain Code is published in this issue of the *Illinois Register*.

6) Will this proposed repealer replace an emergency rule in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed repealer contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rule does not affect units of local governments.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will be granted for receiving comments from the public. This comment period will begin on the day the notice of rulemaking appears in the Illinois Register. Comments should be sent to the attention of:

Debbie Wakefield
Department of Agriculture
State Fairgrounds, P.O. Box 19281

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

Springfield, IL 62794-9281
(217) 785-5713 or FAX: (217) 785-4505

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small country elevators and feed mills (small municipalities and not-for-profit corporations are not affected).

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Repealer begins on the next page.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER k: GRAIN

PART 285
ILLINOIS GRAIN INSURANCE ACT (REPEALED)

Section
285.10 Agricultural Commodities
285.20 Cooperative Agreement with Federally-Licensed Grain Warehouses
285.30 Newly Licensed Grain Dealers and Grain Warehousemen
285.40 No Extension of Time to Pay Assessment
285.50 Fees
285.60 Determination of Valid Claims
285.70 Payment of Valid Claims from the Grain Indemnity Trust Fund
285.80 Liquidated Trust Funds
285.90 Priority of Claims
285.100 Administrative Hearings
285.110 Equal Financial Protection Provided by Federally-Licensed Grain Warehouses

AUTHORITY: Implementing and authorized by The Illinois Grain Insurance Act (Ill. Rev. Stat. 1983, ch. 114, pars. 701 et seq., as amended by PA 84-156, effective August 13, 1985).

SOURCE: Adopted at 8 Ill. Reg. 5947, effective April 23, 1984; emergency amendment at 9 Ill. Reg. 18147, effective November 6, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 6818, effective April 7, 1986; repealed at 20 Ill. Reg. _____, effective _____.

Section 285.10 Agricultural Commodities

Other agricultural commodities covered by the Fund shall include those commodities as designated in The Public Grain Warehouse and Warehouse Receipts Act (Ill. Rev. Stat. 1983, ch. 114, par. 214.2) or "An Act to license and regulate grain dealers engaged in the business of purchasing grain from the producers thereof and making an appropriation in connection therewith" (Ill. Rev. Stat. 1983, ch. 111, par. 301) and the rules promulgated pursuant to the authority of these Acts (8 Ill. Adm. Code 505 and 68 Ill. Adm. Code 600).

Section 285.20 Cooperative Agreement with Federally-Licensed Grain Warehouses

a) When requested in writing by a federally-licensed grain warehouseman, the Department shall enter into a cooperative agreement with the grain warehouseman for participation in the Fund, provided:
   1) the grain warehouse facility is located within the State of Illinois, and
   2) the warehouse receipts must indicate at which Illinois facility the delivery of grain was made if the grain warehouse license covers multiple facilities.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

b) The cooperative agreement shall be on forms provided by the Department. This agreement grants participation in the Fund upon payment of the appropriate fees by the federally-licensed grain warehouseman. In order to determine the fee assessments and valid claims, this agreement authorizes the Department to secure from the federally-licensed grain warehouseman information relative to that federally-licensed grain warehouseman, including but not limited to, U.S. Department of Agriculture examination and licensing information furnished to that warehouseman, information concerning licensee's storage capacity and changes in that storage capacity, financial stability, deficiency bonding, audits, reports and records. This cooperative agreement shall not be revoked or cancelled except upon 30 days written notice to the Department and depositors of grain are entitled to protection under the Fund for a period of 30 days. Federally-licensed warehousemen who enter into a cooperative agreement with the Department shall be assessed in accordance with Section 5 of The Illinois Grain Insurance Act (Ill. Rev. Stat. 1983, ch. 114, par. 705).

c) The Department shall issue a certification to the U.S. Department of Agriculture attesting to the fact that the federally-licensed grain warehouseman has qualified and is covered through the Fund until notice of termination is given and that the State of Illinois guarantees the Fund. The Department shall give 30 days written notice of termination of the cooperative agreement with the federally-licensed grain warehouseman to the U.S. Department of Agriculture.

d) The assessment for a federally-licensed grain warehouseman who is participating in the Fund shall be in accordance with the fee schedule in Section 5(a) of The Illinois Grain Insurance Act if the warehouseman was licensed prior to the effective date of The Illinois Grain Insurance Act. If the warehouseman was not licensed as a federal grain warehouse until after the effective date of The Illinois Grain Insurance Act, the assessment shall be in accordance with the fee schedule in Section 5(b) of the Act.

e) If a federally-licensed grain warehouseman participating in the Fund becomes licensed as a grain warehouseman by the Department, the warehouseman shall not be considered to be newly licensed.

Section 285.30 Newly Licensed Grain Dealers and Grain Warehousemen

For the purposes of assessing fees as set forth in Section 5(b) of The Illinois Grain Insurance Act, the Department shall consider the following grain dealers and grain warehousemen as being newly licensed:

a) Any legal entity which is licensed by the Department as a grain warehouseman or grain dealer for the first time after the effective date of The Illinois Grain Insurance Act, except for the following:

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

1) An entity resulting from a name change of a licensed grain dealer or grain warehouseman.
2) A licensed facility which has become a wholly-owned subsidiary of another licensed grain dealer or grain warehouseman.
3) Any grain warehouseman licensed by the Department may change from a Class I license to a Class II license or from a Class II license to a Class I license without being considered to be newly licensed.

b) Any grain warehouseman or grain dealer who after the effective date of The Illinois Grain Insurance Act has a lapse in licensing of more than 30 days. A license will not be considered to be lapsed after its statutory expiration date if any administrative or judicial action is pending or if an order from an administrative or judicial body continues an existing license.

c) Any grain warehouseman or grain dealer whose licensed legal entity has materially been altered by a change in the number of partners or identity of the partners.

Section 285.40 No Extension of Time to Pay Assessment

No time extensions for the payment of any assessment shall be granted.

Section 285.50 Fees

The fees assessed in Section 5 of The Illinois Grain Insurance Act shall be in addition to the license fees set forth in Section 5 of "An Act to license and regulate grain dealers engaged in the business of purchasing grain from producers thereof and making an appropriation in connection therewith," the examination and inspection fees set forth in 68 Ill. Adm. Code 600.50, the license fees set forth in Section 5 of The Public Grain Warehouse and Warehouse Receipts Act, and the filing and inspection fees set forth in 8 Ill. Adm. Code 505.430. Newly licensed grain dealers, grain warehousemen and federally-licensed grain warehousemen shall pay the assessment upon receiving their license or upon issuance of a certificate of participation in the Fund.

Section 285.60 Determination of Valid Claims

The Department shall comply with the procedures set forth in 8 Ill. Adm. Code 3: Subparts B and C in determining claimants and valid claims. Valid claims shall be as set forth in 8 Ill. Adm. Code 3.100 and 3.190, less all credits and offsets. Credits and offsets shall include, but need not be limited to, accounts receivables and assets or property that the claimant may rely upon as partial satisfaction of a claim.

Section 285.70 Payment of Valid Claims from the Grain Indemnity Trust Fund

a) The Department shall request in writing to the Board a transfer from the Fund to the Grain Indemnity Trust Fund in an amount not to exceed

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

the sum of the valid claims as set forth in the hearing officer's order and in accordance with the statutory limitation as set forth in Section 8 of The Illinois Grain Insurance Act. The funds of the Illinois Grain Insurance Fund shall only be available to pay claimants possessing valid claims.

b) Within 90 days after a claim is adjudicated valid by the Department, the Department shall pay by check from the Grain Indemnity Trust Fund to a claimant with a valid claim the amount of the valid claim, not to exceed the statutory limitation as set forth in Section 8 of The Illinois Grain Insurance Act, except that the Department shall not pay any claim that is contested or which would have an affect on the final distribution of funds until 35 days has elapsed from the date of the final administrative decision (see 8 Ill. Adm. Code 1.75(k) and 1.340) of the Department.

Section 285.80 Liquidated Trust Funds

Proceeds from liquidated securities, grain assets and/or assets of the failed grain dealer or grain warehouseman which the Department has deposited in the Grain Indemnity Trust Fund as set forth in 8 Ill. Adm. Code 3.90 and 3.230 shall be used for the purposes and payments as follows:

a) A claimant under Section 8 (a) and (b) of The Illinois Grain Insurance Act.
b) Repayment to the Illinois Grain Insurance Fund as set forth in Section 9(c) of The Illinois Grain Insurance Act.
c) Any funds remaining in the Grain Indemnity Trust Fund shall be paid to the failed grain dealer or grain warehouseman after 35 days has elapsed after the payments have been made as set forth in 8 Ill. Adm. Code 285.90 (a) and (b).

Section 285.90 Priority of Claims

Prioritization deals only with the assets of the Fund and not with the assets of the Grain Indemnity Trust Fund. Claims shall be prioritized as follows:

a) In accordance with Section 9(d) of The Illinois Grain Insurance Act.
b) Valid claims of claimants who are entitled to 100 percent payment as authorized in Section 8(b) of The Illinois Grain Insurance Act.
c) Valid claims of claimants who are entitled to payment under Section 8(a) of The Illinois Grain Insurance Act.

Section 285.100 Administrative Hearings

a) Following an administrative hearing, if a grain dealer or grain warehouseman is found to have failed to pay the financial obligations set forth in Section 5 of The Illinois Grain Insurance Act, the Department shall suspend the license pending payment of such assessment. Failure to pay the assessment within 35 days from the hearing officer's decision shall cause the license to be revoked.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

b) All decisions and actions of the Department are subject to the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1001-1 et seq.) and the Department's Administrative Rules (8 Ill. Adm. Code 1) which pertain to administrative hearings, petitions, proceedings, contested cases, declaratory rulings and availability of Department files for public access. Administrative hearings are governed by the Illinois Administrative Procedure Act and Subpart B of the Department's Administrative Rules.

Section 285.110 Equal Financial Protection Provided by Federally-Licensed Grain Warehouses

a) Any federally-licensed grain warehouse, that is located within the State of Illinois and is not a participant in the Illinois Grain Insurance Fund, shall provide financial protection for claimants equal to the protection which is afforded claimants under The Illinois Grain Insurance Act.

b) The amount of the collateral security that is required to be posted by the grain warehouseman with the Department shall be determined by multiplying the total licensed storage capacity of the grain warehouse by the average price per bushel for the commodity being stored. The average price per bushel shall be determined by averaging the five preceding seasons' average price per bushel for that commodity in Illinois. If more than one commodity is stored in the grain warehouse, the percent of the licensed storage capacity for each commodity shall be multiplied by the average price per bushel for that commodity. The percent of the licensed storage capacity for each commodity shall be an averaged percent of the amount of storage allocated in the warehouse for that commodity for the past five years. The amount of the collateral security required to be posted must assure financial protection of the total licensed storage capacity of the grain warehouse.

c) Collateral security that may be posted shall be as stated in 8 Ill. Adm. Code 3: Subparts A and B. The issuance, control and cancellation of collateral security shall be as set forth in 8 Ill. Adm. Code 3. If a surety bond is filed with the Department as collateral security, such bond shall be issued by a surety company authorized to transact business within the State of Illinois and the bond shall be made payable to the People of the State of Illinois, Director of Agriculture, as trustee. Such bond shall be kept in force at all times while the federally-licensed grain warehouseman is engaged in business as a grain warehouseman. The surety bond shall contain a provision that it may not be cancelled by either the surety company or the principal, except upon 60 days' notice in writing to the Department in accordance with the procedures set forth in 8 Ill. Adm. Code 3.70. Such notice will in no way affect the liability that has accrued or which may accrue under the bond before the expiration of the 60 days.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

d) When the business of a federally-licensed grain warehouseman who has posted collateral security in accordance with this Section fails, the Department shall utilize those procedures set forth in Section 40.23 of The Civil Administrative Code of Illinois and in 8 Ill. Adm. Code 3.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Public Grain Warehouse and Warehouse Receipts Act

2) Code Citation: 8 Ill. Adm. Code 505

3)

Section Numbers:	Proposed Action:
505.10	Repealed
505.20	Repealed
505.25	Repealed
505.27	Repealed
505.30	Repealed
505.40	Repealed
505.50	Repealed
505.60	Repealed
505.70	Repealed
505.80	Repealed
505.90	Repealed
505.100	Repealed
505.110	Repealed
505.120	Repealed
505.130	Repealed
505.140	Repealed
505.150	Repealed
505.160	Repealed
505.170	Repealed
505.180	Repealed
505.190	Repealed
505.200	Repealed
505.210	Repealed
505.220	Repealed
505.230	Repealed
505.240	Repealed
505.250	Repealed
505.260	Repealed
505.270	Repealed
505.280	Repealed
505.290	Repealed
505.300	Repealed
505.310	Repealed
505.320	Repealed
505.330	Repealed
505.340	Repealed
505.350	Repealed
505.360	Repealed
505.370	Repealed
505.380	Repealed
505.390	Repealed
505.400	Repealed
505.410	Repealed

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

505.420	Repealed
505.430	Repealed
505.440	Repealed
505.450	Repealed
505.460	Repealed
Illustration A	Repealed

4) Statutory Authority: The Public Grain Warehouse and Warehouse Receipts Act [240 ILCS 15] and Section 5 of the Illinois Grain Insurance Act [240 ILCS 25/5] and Sections 16 and 40.23 of the Civil Administrative Code of Illinois [20 ILCS 5/16 and 205/40.23]

5) A Complete Description of the Subjects and Issues Involved: Pursuant to P.A. 89-0287, the Public Grain Warehouse and Warehouse Receipts Act is repealed effective January 1, 1996. The Department of Agriculture has combined the provisions of the Public Grain Warehouse and Warehouse Receipts Act, the Illinois Grain Dealers Act, and the Illinois Grain Insurance Act into the Grain Code, effective January 1, 1996. A Notice of Proposed Rules for the Grain Code is published in this issue of the Illinois Register.

6) Will this proposed repealer replace an emergency rule in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed repealer contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: Rule does not affect units of local governments.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will be granted for receiving comments from the public. This comment period will begin on the day the notice of rulemaking appears in the Illinois Register. Comments should be sent to the attention of:

Debbie Wakefield
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield, IL 62794-9281
217/785-5713 or FAX: 217/785-4505

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small country elevators and feed mills (small

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

municipalities and not-for-profit corporations are not affected).

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: July 1995

The full text of the proposed repealer begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER o: WAREHOUSE REGULATIONS

PART 505
PUBLIC GRAIN WAREHOUSE AND WAREHOUSE RECEIPTS ACT (REPEALED)

Section
505.10 Definitions
505.20 Application for License
505.25 Issuing License; Approving Amended Licensed Storage Capacity; Warehouse Facility Requirements
505.27 Approving Temporary Storage Structures for the Storage of Grain
505.30 Warehouse Receipt Forms
505.40 Printing of Warehouse Receipts
505.50 Daily Position Record
505.60 Application for License (Repealed)
505.70 Issuing of Warehouse Receipts
505.80 Transfer and Redeposit
505.90 Class 2 Warehouseman: Redepositing Grain
505.100 Delivery of Grain and Cancellation of Warehouse Receipts (Repealed)
505.110 Grain Bank: Accounting for, Withdrawal and Deposit of Grain
505.120 Grain Bank: Recording Withdrawals and Additional Deposits (Repealed)
505.130 Grain Bank: Quality of Grain
505.140 Grain Bank: Monthly Statements to Depositors
505.150 Grain Bank: Overdrafts
505.160 Duties of the Warehouseman: Equipment and Personnel
505.170 Maintenance of Facilities (Repealed)
505.180 Hours; Posting of Notices
505.190 Posting of License and Schedule of Rates; Approving Rate Changes (Repealed)
505.200 Reporting Losses
505.210 Maintenance of Daily Position Record (Repealed)
505.220 Safeguarding and Retention of Records
505.230 Posting Bin Chart and Diagram
505.240 Settlement Sheets
505.250 Scale Tickets
505.260 Cross-Referencing Accounts and Records
505.270 Warehouseman's Responsibility to Increase Bond (Repealed)
505.280 Initial License Bonding Requirements; Initial and Continuing Bonding Requirements for The Illinois Grain Insurance Act
505.290 Surety Bond: Name and Address (Repealed)
505.300 Surety Bond: Signature, Notary Public, and Corporate Seal (Repealed)
505.310 Financial Requirements For Maintaining a License
505.320 Certificates of Deposit
505.330 Insurance: Filing Requirements
505.340 Insurance: Name and Address On Policy
505.350 Right of Examination

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

505.360 Rates and Charges: Filed With Bureau
505.370 Compensation for Storage (Repealed)
505.380 Duration of Storage: Effective Dates of Changes on Schedule of Rates (Repealed)
505.390 Financial Statement: Initial Filing for Class 2 (Repealed)
505.400 Financial Statement: Initial Filing for Class 1 (Repealed)
505.410 Financial Statement: Annual Filing; Class 2 Requirements
505.420 Financial Statement: Annual Filing; Class 1 Requirements; Extension of Time
505.430 Examination or Inspection Fees (Repealed)
505.440 Procedure for Determining the Value of Depositors' Grain in a Failed Warehouse
505.450 Procedure for the Sale of Grain from a Failed Warehouse
505.460 Administrative Hearing
ILLUSTRATION A Grain Warehouse Bond

AUTHORITY: Implementing and authorized by The Public Grain Warehouse and Warehouse Receipts Act (Ill. Rev. Stat. 1987, ch. 114, pars. 214.1 et seq.) and Section 5 of The Illinois Grain Insurance Act (Ill. Rev. Stat. 1987, ch. 114, par. 705); implementing Sections 40.17 and 40.23 and authorized by Sections 16 and 40.23 of The Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, pars. 40.17, 40.23 and 16).

SOURCE: Adopted at 4 Ill. Reg. 27, p. 171, effective June 20, 1980; codified at 5 Ill. Reg. 10556; amended at 8 Ill. Reg. 859, effective January 9, 1984; amended at 8 Ill. Reg. 14216, effective July 30, 1984; amended at 10 Ill. Reg. 7675, effective April 28, 1986; amended at 13 Ill. Reg. 3703, effective March 13, 1989; repealed at 20 Ill. Reg. _____, effective _____.

Section 505.10 Definitions

"Act" means The Public Grain Warehouse and Warehouse Receipts Act (Ill. Rev. Stat. 1987, ch. 114, par. 214.1 et seq.).

"Bureau" means the Bureau of Warehouses of the Division of Plant Industries and Consumer Services , Illinois Department of Agriculture, State Fairgrounds, Springfield, Illinois 62794-9281; telephone 217/782-2895.

"Change of management" means when the person or entity exercising direct control of the assets ceases such function and another person or entity assumes such control.

"Licensed storage capacity" is the amount of storage space in all warehouse structures designated by the warehouseman for storing grain which is subject to the Act and as approved by the Department in accordance with the rules of this Part.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

"Official Grain Standards" means the official grade designations as adopted by the United States Department of Agriculture pursuant to the United States Grain Standards Act (7 U.S.C.A. 71 et seq. (1988)) and 7 CFR 810.201 et seq. (1988).

"Successor Agreement" is an agreement between the retiring warehouseman and the person who will fulfill the obligation of the retiree to the depositors in accordance with the Act.

"Uniform Commercial Code" refers to Ill. Rev. Stat. 1987, ch. 26, pars. 1-101 et seq.

Section 505.20 Application for License

a) All applications for a license to operate a warehouse shall be filed with the Bureau on forms provided by the Bureau. The application shall be signed by the applicant. An applicant for a warehouse license shall submit the following information:
   1) Whether the application is for a Class 1 or Class 2 warehouse license.
   2) Whether applicant is an individual, association, corporation or partnership, and the name of the State where incorporated, if applicable.
   3) Fiscal closing date.
   4) Manager's name.
   5) Whether applicant is taking over a business that has been previously licensed. If so, the name of company being taken over.
   6) Legal name of the entity.
   7) Name of owner or owners if applicant is an individual or partnership. List of officers and registered agent if applicant is an association or a corporation.
   8) The address of each warehouse which the applicant proposes to operate under the license.
   9) A description of all grain storage structures that are owned, leased or used by the applicant for the storage of grain, including bin numbers, to be included under the license.
   10) The licensed storage capacity of the warehouse.
   11) Whether the warehouseman will store grain only for others or for both himself/herself and others.

b) An applicant for a warehouse license shall submit the following:
   1) a certificate of authority to do business in the State of Illinois or a copy of the Articles of Incorporation if the applicant is registered as an Illinois corporation;
   2) a financial statement, unless exempted by Section 3 of the Act;
   3) a certificate indicating that insurance coverage has been obtained (see Section 505.330);
   4) a copy of the proposed schedule of rates to be charged (see

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

Section 505.360);
5) post bond or other security as required by Section 505.280;
6) a fee as set forth in Section 5 of the Act;
7) a copy of the successor's agreement, if applicable;
8) a copy of the lease agreement(s), if applicable;
9) qualifications of the operator(s), such as, whether the operator is bonded, grain warehousing and/or grain industry experience, brief description of duties the operator will perform, and business references; and
10) a copy of the receipt that indicates the name of the business has been registered with the county clerk in accordance with "AN ACT in relation to the use of an assumed name in the conduct or transaction of business in this state" (Ill. Rev. Stat. 1987, ch. 96, par. 4 et seq.), if applicable.

Section 505.25 Issuing License; Approving Amended Licensed Storage Capacity; Warehouse Facility Requirements

a) The Department shall issue a license or approve the application to amend the licensed storage capacity provided all of the licensing requirements as set forth in the Act and the rules of this Part have been met and provided the warehouse meets the following requirements:
   1) The grain storage structures are owned or leased by the applicant/warehouseman.
   2) Grain is protected from weather elements (i.e., a floor of concrete, asphalt, wood or metal).
   3) Each grain storage structure is covered by a permanent, waterproof roof.
   4) The grain storage structure has rigid sidewalls (e.g., concrete, wood, or metal).
   5) Each grain storage structure shall meet the requirements of Section 9 of the Act.
   6) All grain storage structures that are connected by legs, pipes, belts or other fixed devices which transport grain shall be included in the licensed space.
b) Prior to increasing or decreasing the licensed storage capacity, the licensee shall submit an application to amend the licensed storage capacity and provide the following:
   1) The legal name and address of the entity;
   2) Description of each storage structure that is being added to or removed from the licensed storage capacity;
   3) The storage capacity of each warehouse structure proposed to be added or deleted;
   4) A certificate indicating that insurance coverage has been obtained on all space added to the licensed storage capacity; and
   5) A fee as set forth in Section 5 of the Act.

Section 505.27 Approving Temporary Storage Structures for the Storage of Grain

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

The Department shall approve a temporary grain storage structure(s) provided that the space in the temporary storage structure(s) does not exceed 30 percent of the permanently licensed storage capacity, the warehouseman demonstrates that all of the warehouseman's licensed storage capacity is utilized, and there is a need for additional storage on a temporary basis, such as, in the case of a bumper crop. The space in a temporary storage structure shall be considered an increase in the licensed storage space and shall be subject to the provisions of Section 505.20(c). The authorization to use temporary storage structures for the storage of grain shall expire at the end of six months from the date of approval or May 15, whichever comes first. In order for a temporary storage structure to be approved for the storage of grain, it shall meet the following requirements:
a) The grain storage area shall have a permanent base (i.e., concrete or asphalt floor).
b) Hot spot detectors, aeration fans and ducts are provided to assure that the quality of grain in storage is maintained.
c) The grain storage structure has rigid sidewalls (e.g., concrete, wood or metal).
d) The grain storage structure is equipped with a waterproof covering, with inlets to allow airflow and of sufficient strength to support a person's weight.
e) Access to the grain is provided for the purpose of sampling and making examinations.

Section 505.30 Warehouse Receipt Forms

Every warehouse receipt, in addition to complying with the requirements of Article 7 of the Uniform Commercial Code, shall have embodied within its written or printed terms the following:
a) Class of warehouse (1 or 2).
b) The legal name of the entity operating the warehouse.
c) If a license covers multiple locations, the receipt must indicate at which location delivery was made.
d) The kind and the Official Grain Standards of the grain.
e) The number of bushels stored.
f) The words "Negotiable" or "Non-negotiable" according to the nature of the receipt, conspicuously printed or stamped thereon.
g) The date the grain was delivered for storage.
h) Receipts of warehousemen licensed to co-mingle grain must have a statement on them of such fact.

Section 505.40 Printing of Warehouse Receipts

Grain warehouse receipts shall be printed by an agency authorized by the Bureau to print such receipts. The Department will authorize agencies to print warehouse receipts provided they agree to print receipts in accordance with Section 505.30 and this Section and provided they submit the required surety bond. The agency shall provide a surety bond to the Bureau in the sum of

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

$5,000, payable to the People of the State of Illinois, Director of Agriculture as trustee, to guarantee faithful compliance with the following provisions and requirements:

a) That all grain warehouse receipts are printed as prescribed in Sections 505.30 and 505.40.
b) Receipts shall be printed only for those individuals having a valid Illinois Grain Warehouse License.
c) All warehouse receipts shall be numbered consecutively.
d) A complete record of the receipts printed shall be retained by the printing agency for 5 years, showing for whom printed, the number printed, and the consecutive numbers that were printed on the receipts.
e) A duplicate copy of any invoice rendered for printing warehouse receipts shall be forwarded by the printing agency to the Bureau at the same time as billing is made to the warehouseman. The invoice shall show for whom printed, the consecutive numbers that were printed on the receipts, type of receipt (whether negotiable or non-negotiable), and number of receipts printed.

Section 505.50 Daily Position Record

A daily position record (grain inventory accountability record) shall be maintained on a daily basis (by commodity). Postings for each day shall reflect actual changes in inventory for that day. The Daily Position Record shall provide for a separate accounting, by column, for the following:

a) Summary stock record showing amounts of grain received, loaded out of the warehouse, adjustments, total inventory in the warehouse, redeposited grain (if applicable), and total of the inventory in the warehouse and redeposited grain.
b) Storage obligations:
   1) Negotiable and non-negotiable warehouse receipts liability; and
   2) Storage liability to depositors (indicated by settlement sheet records, scale tickets, and other such documents, other than a warehouse receipt).
c) Unreceipted company-owned grain:
   1) Grain in the warehouse; and
   2) Redeposited grain, if applicable.
d) The Daily Position Record shall show a summary of total outstanding obligations and unreceipted company-owned grain which shall equal total of inventory in the warehouse and redeposited grain.

Section 505.60 Application for License (Repealed)

Section 505.70 Issuing of Warehouse Receipts

A negotiable or non-negotiable warehouse receipt shall be issued by the warehouseman to the depositor, on demand by the depositor, for grain delivered into storage. In the case where no warehouse receipt was originally issued to

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

the depositor, except for grain bank accounts, the warehouseman shall issue a warehouse receipt on such stored grain prior to the next harvest season for that commodity. In the case of a Class 2 warehouseman, only non-negotiable warehouse receipts shall be issued.

Section 505.80 Transfer and Redeposit

If the warehouseman issues warehouse receipts to depositors for redeposited grain, the warehouseman shall stamp across the face of such receipts this phrase, "Grain represented by this receipt has been redeposited," and stamp across the face of any warehouse receipt received for redeposited grain from the warehouse in which the grain was redeposited "Not Negotiable."

Section 505.90 Class 2 Warehouseman: Redepositing Grain

No Class 2 warehouseman shall redeposit grain unless all of the licensed space is allocated for storage operations.

Section 505.100 Delivery of Grain and Cancellation of Warehouse Receipts (Repealed)

Section 505.110 Grain Bank: Accounting for, Withdrawal and Deposit of Grain

a) Grain deposited for Grain Bank purposes shall be accounted for on a separate record, with such record containing the same informational requirements as a non-negotiable warehouse receipt, or on a non-negotiable warehouse receipt listing each lot of grain deposited and withdrawn showing a net balance.
b) When a non-negotiable warehouse receipt is issued for grain bank, the reverse side of the original warehouse receipt shall be used to record withdrawals and additional deposits and the warehouse receipt shall be retained by the warehouseman.
c) No deposit shall be recorded which would increase the balance of the grain in the grain bank to an amount which would exceed the original net bushels on the face of the warehouse receipt.

Section 505.120 Grain Bank: Recording Withdrawals and Additional Deposits (Repealed)

Section 505.130 Grain Bank: Quality of Grain

The depositor in a Grain Bank is entitled to grain of the same quality as the grain deposited.

Section 505.140 Grain Bank: Monthly Statements to Depositors

The warehouseman will furnish a statement to each depositor monthly, indicating the current balance, unless no transactions have taken place since the previous

statement. Grain Bank obligations will be determined by the total amount due depositors in bushels or pounds or both.

Section 505.150 Grain Bank: Overdrafts

Overdrafts in Grain Bank accounts shall not be allowed.

Section 505.160 Duties of the Warehouseman: Equipment and Personnel

Warehousemen shall provide equipment and competent personnel to weigh and grade all grain in accordance with the official grain standards.

Section 505.170 Maintenance of Facilities (Repealed)

Section 505.180 Hours; Posting of Notices

Each warehouse shall remain open for the purpose of receiving grain for storage and delivering out of storage every business day, except those warehouses which are open only for certain periods (example--harvest time). Every warehouseman shall post in a conspicuous place in the office and warehouse a notice stating the days of the week and the hours of each business day that the warehouse will remain open. Warehouses, which are open only for certain periods shall have posted at a conspicuous place that is visible to the public when the warehouse is closed, the name, address and telephone number of a responsible contact and the time periods during which the warehouse will be open for business.

Section 505.190 Posting of License and Schedule of Rates; Approving Rate Changes (Repealed)

Section 505.200 Reporting Losses

The warehouseman shall report to the Bureau all losses by fire, explosion, theft or other causes, excluding handling or drying losses, within 48 hours of the occurrence thereof.

Section 505.210 Maintenance of Daily Position Record (Repealed)

Section 505.220 Safeguarding and Retention of Records

The operator of a warehouse shall provide a secure place at each warehouse location and at the principal office for all records pertaining to the operation of the warehouse. Such records shall be kept current and made available for inspection by Department personnel at the principal office of the warehouse and at the warehouse location. Such records shall be retained by the warehouseman for a period of not less than 2 years from the closing date of any storage transaction.

Section 505.230 Posting Bin Chart and Diagram

The warehouseman shall post in a conspicuous place in the office of each warehouse a bin chart and diagram, as supplied by the Bureau, showing the location, bin number and capacity of all bins and sections of the warehouse.

Section 505.240 Settlement Sheets

Settlement sheets shall be prenumbered by the printer. The warehouseman shall use settlement sheets in numerical sequence, and account for all settlement sheets. Settlement sheets shall contain evidence of the method of settlement, such as check number, warehouse receipt number, or other evidence of settlement. Settlement sheets, both open and closed, shall be filed in a manner to be readily available for examination purposes, such as, alphabetical or numerical.

Section 505.250 Scale Tickets

Scale tickets shall be prenumbered by the printer. The warehouseman shall issue scale tickets in numerical sequence and a copy of the scale ticket shall be filed numerically. The warehouseman shall account for all scale tickets.

Section 505.260 Cross-referencing Accounts and Records

All accounts and records relating to grain warehousing operations are to be properly cross-referenced (identifiable and traceable from delivery into storage to delivery from storage and as acceptable to the Certified Public Accountant performing the audit).

Section 505.270 Warehouseman's Responsibility to Increase Bond (Repealed)

Section 505.280 Initial License Bonding Requirements; Initial and Continuing Bonding Requirements for The Illinois Grain Insurance Act

a) All of the licensed storage capacity of the warehouseman shall be bonded. The initial license bonding requirements for the purposes of this Act and for the purposes of Section 5 of The Illinois Grain Insurance Act (Ill. Rev. Stat. 1987, ch. 114, par. 705) shall be as follows:
   1) The minimum net worth in accordance with Financial Accounting Standards (Financial Accounting Standards Board, High Ridge Park, Stamford, Connecticut 06905, June 1, 1981; Library of Congress Catalog No. 81-66828) to qualify for a warehouse license shall be as set forth in Section 3 of the Act.
   2) The minimum bond for a Class 1 warehouseman shall be 15 cents per bushel of the total licensed storage capacity or $10,000, whichever is greater. The minimum bond for a Class 2 warehouseman shall be 25 cents per bushel of the total licensed storage capacity or $10,000, whichever is greater.
   3) In addition, the bond and net worth of a warehouseman shall equal

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

at least 35 cents a bushel on the first one million bushels of licensed storage capacity and at least 30 cents a bushel on all licensed storage capacity over one million bushels. In the case of a deficiency in meeting this requirement, the Department shall require a bond or other security in an amount at least equal to the deficiency to be filed with the Bureau.

b) If the applicant has paid the fee as required by Section 5 of The Illinois Grain Insurance Act, the applicant shall be considered as having met the initial license bonding requirements of this Act, and the initial bond shall be waived.

c) When a warehouseman cannot effect proper adjustments by grade, or the warehouseman's inventory is not in balance with outstanding obligations for any reason, including but not limited to inaccurate or incomplete records, the Department may require a bond or other security as provided for in Section 8 of the Act to be filed with the Department in an amount equal to the current value of the grain that is over-obligated or $10,000, whichever is greater. In determining whether a bond or other security shall be posted, the Department shall consider net worth of the warehouseman, the total licensed storage capacity, previous violations of the warehouseman, accuracy of the warehouseman's records, length of time the warehouseman was over-obligated, and the amount of grain that is over-obligated. In determining the current value of the over obligation, the Department shall use the current cash bid for the commodity on the day the examination commenced which revealed the over obligation. The additional bond or security shall be released when an examination by the Department indicates there has been no reoccurrence of the violation, and in no case, shall the additional bond or security be released in less than one year and 285 days from the date of posting such bond or security with the Department. The bond shall contain the same terminology as the bond shown as Illustration A of this Part. Procedures for the collection, cancellation, control and distribution of surety bonds shall be as established in 8 Ill. Adm. Code 3. Subpart A.

Section 505.290 Surety Bond: Name and Address (Repealed)

Section 505.300 Surety Bond: Signature, Notary Public, and Corporate Seal (Repealed)

Section 505.310 Financial Requirements for Maintaining a License

a) A Class 1 warehouseman shall:
   1) maintain a minimum net worth in accordance with Financial Accounting Standards (Financial Accounting Standards Board, High Ridge Park, Stamford, Connecticut 06905, June 1, 1981; Library of Congress Catalog No. 81-66828) as set forth in Section 3 of the Act; and

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

   2) maintain a bond and net worth of at least 35 cents per bushel of licensed storage capacity for the first one million bushels and 30 cents per bushel of licensed storage capacity for all capacity over one million bushels.

b) A Class 2 warehouseman shall:
   1) maintain a minimum net worth in accordance with Financial Accounting Standards (Financial Accounting Standards Board, High Ridge Park, Stamford, Connecticut 06905, June 1, 1981; Library of Congress Catalog No. 81-66828) as set forth in Section 3 of the Act; and
   2) maintain a bond and net worth of at least 35 cents per bushel of licensed storage capacity.

c) If the warehouseman has paid the assessment as required by The Illinois Grain Insurance Act, the bonding requirements of this Act shall be considered as having been met and the bond shall be waived until the next assessment is due.

Section 505.320 Certificates of Deposit

Procedures for the collection, cancellation, control and distribution of Certificates of Deposit and/or pledged security shall be as established in 8 Ill. Adm. Code 3: Subparts B and C.

Section 505.330 Insurance: Filing Requirements

Before a license shall be issued to the applicant or the licensed storage capacity is changed, the applicant/licensee shall file with the Bureau a certificate which shall indicate that the insurance required by Section 13 of the Act is in effect. If the depositor's grain is co-mingled with grain owned by the licensee (company owned grain), all grain must be insured, except as provided in Section 13 of the Act.

Section 505.340 Insurance: Name and Address On Policy

The legal name and address of the entity and location of each warehouse in the insurance policy shall correspond with the information given in the application.

Section 505.350 Right of Examination

Department personnel shall have the right to enter and inspect each storage structure used by the warehouseman for the storage of grain on any business day (during usual business hours) and inspect or examine the records, books and accounts of the warehouseman, facilities, equipment and contents pursuant to Sections 3(4) and 16 of the Act. The warehouseman shall provide assistance as necessary in order to make an inspection of the facilities or an examination of the records.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

Section 505.360 Rates and Charges: Filed With Bureau

a) An applicant for a license shall file and have approved by the Bureau a schedule of rates. The schedule of rates shall show monthly or daily storage rates, receiving and loading out charges to be assessed against the depositor of the grain.
b) Before making any changes in the approved schedule of rates, the warehouseman shall submit to the Bureau in writing the proposed changes. A warehouseman shall not change existing rates until the Bureau has approved the application to amend the rates. The Bureau shall within 30 days of receipt of the application to amend the rates approve or deny the application and so notify the warehouseman in writing. The Bureau shall indicate the effective date of the revised rates on the rate schedule which shall be returned to the warehouseman.
c) When approving rates, the Department shall consider fluctuating market conditions, estimated overhead costs, comparison of rates currently approved, and the supporting reasons, if submitted.
d) Revised rates on grain in storage at the time of the effective date of a revised rate schedule shall become effective as set forth in Section 14 of the Act.

Section 505.370 Compensation for Storage (Repealed)

Section 505.380 Duration of Storage: Effective Dates of Changes on Schedule of Rates (Repealed)

Section 505.390 Financial Statement: Initial Filing for Class 2 (Repealed)

Section 505.400 Financial Statement: Initial Filing for Class 1 (Repealed)

Section 505.410 Financial Statement: Annual Filing; Class 2 Requirements

Each licensed Class 2 warehouseman shall file with the Bureau a verified financial statement, on forms provided by the Bureau, within 90 days after the close of the warehouseman's fiscal year. A Class 2 warehouseman may file a certified financial statement in accordance with Section 505.420 in lieu of the verified financial statement.

Section 505.420 Financial Statement: Annual Filing; Class 1 Requirements; Extension of Time

A Class 1 warehouseman shall file with the Bureau a financial statement prepared and certified in accordance with Section 3 of the Act within 90 days after the close of the warehouseman's fiscal year. The Bureau may grant an extension of time for filing the financial statement for the period of time as requested by the warehouseman, but in no case shall the extension exceed 60 days, and provided that the application for the extension is made by a licensed

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

public accountant and includes a certified statement setting forth in detail the results of the accountant's audit of the warehouseman's inventory. If the inventory comparison shows no deficiency in inventory to meet storage obligations, the Department shall approve the extension of time for submitting the financial statement.

Section 505.430 Examination or Inspection Fees (Repealed)

Section 505.440 Procedure for Determining the Value of Depositors' Grain in a Failed Warehouse

The Department shall use an average of the cash bid prices, as solicited from grain dealers located within the market area of the failed warehouse on the date of closing, for each type of grain stored in the failed warehouse or as indicated by evidence of storage, less transportation and handling costs. The schedule of discounts (i.e., moisture, foreign material, test weights, heating, musty, sour or commercially objectionable odors, heat damage, weevil damage, splits and damage to the kernels) of the failed warehouseman shall be used by the Department to determine discounts to be assessed against valid claims.

Section 505.450 Procedure for the Sale of Grain from a Failed Warehouse

The Department shall solicit at least three grain dealers located within the market area of the failed warehouse for the sale of grain in the failed warehouse. The Department shall solicit quotations for market discounts (i.e., moisture, foreign material, test weights, heating, musty, sour or commercially objectionable foreign odors, heat damage, weevil damage, splits and damage to the kernels) from each grain dealer who submits a bid. The Department shall consider the following factors in determining who shall purchase the grain:

a) The bid price for the grain.
b) Transportation costs to be deducted from the bid price for the grain.
c) Market discounts that will be applied against the bid price for the grain.
d) The amount of the grain that the grain dealer can take delivery of during the contracted time period for transporting the grain.

Section 505.460 Administrative Hearing

All decisions and actions of the Department are subject to the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, pars. 1001-1 et seq.) and the Department's Administrative Rules (8 Ill. Adm. Code 1) which pertain to administrative hearings, petitions, proceedings, contested cases, declaratory rulings and availability of Department files for public access. Administrative hearings are governed by the Illinois Administrative Procedure Act and Subpart B of the Department's Administrative Rules.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

Section 505.ILLUSTRATION A Grain Warehouse Bond

STATE OF ILLINOIS
DEPARTMENT OF AGRICULTURE
DIVISION OF AGRICULTURAL INDUSTRY REGULATION
BUREAU OF WAREHOUSES

GRAIN WAREHOUSE BOND

License No(s) _____

_____ Bond No. _____
(Figures to be filled in when license is granted) (Figures to be filled in by bonding Co.)

Issued in connection with Grain Warehouse License under the Public Grain Warehouse Receipts Act approved July 11, 1955, as amended.

KNOW ALL MEN BY THESE PRESENTS:

That _____

_____ of the City of _____

County of _____ and State of Illinois, has applied to the Illinois Department of Agriculture for a license to operate a public grain warehouse under provisions of an Act to regulate public grain warehouses, grain warehouse receipts and the warehousing and storage of grain and known as the Public Grain Warehouse and Warehouse Receipts Act, approved July 11, 1955, as amended, and to issue warehouse receipts to himself or to co-mingle grain owned by him with grain stored for others.

NOW, THEREFORE, in the event said application is approved and a license to operate a public grain warehouse, or grain warehouses under the provisions of said Act above referred to is granted by the Illinois Department of Agriculture to said _____

_____

to operate and carry on said business, the said principal and _____ a corporation of the State of _____ as surety are held and firmly bound unto the people of the State of Illinois, with the Director of Agriculture as trustee, for the faithful observance by said principal of said Act entitled "An Act to regulate Public Grain Warehouses, grain warehouse receipts and the warehousing and storage of grain", know as

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

"The Public Grain Warehouse and Warehouse Receipts Act", approved July 11, 1955, as amended, and the faithful observance by said principal of all rules, regulations, orders and decisions of the Illinois Department of Agriculture which are now in effect, and which may hereafter be adopted by the said Department in respect to the operation of a public grain warehouse, and the faithful performance by said principal of its duty as a public grain warehouseman, and for the full and unreserved compliance by said principal with all the laws in the State of Illinois in relation thereof, in the sum of _____

_____$_____, for payment whereof we bind ourselves, and each of us, our successors and assigns, and each of them, firmly by these presents:

NOW, THEREFORE, if the said _____ shall faithfully observe all the provisions of said Act entitled "An Act to regulate public grain warehouses, grain warehouse receipts and the warehousing and storage of grain", and known as "The Public Grain Warehouse and Grain Warehouse Receipts Act", approved July 11, 1955, as amended, and shall faithfully observe all rules, regulations, orders and decisions of the Illinois Department of Agriculture which are now in effect, and which may be hereafter adopted by said Department in respect to the operation of Public Grain Warehouses, and shall faithfully perform its duty as a public grain warehouseman, and shall fully and unreservedly comply with all the laws of the State of Illinois in relation thereto, and shall provide for and promptly pay any judgment buy any person by reason of the damage to or loss of grain stored with said principal, and shall promptly deliver or cause to be delivered from said grain warehouse all grain called for by its warehouse receipts, as presented for delivery upon payment or tender of the storage charges at the rate on file and approved by the Illinois Department of Agriculture other proper charges that may be due thereon in accordance with the law, then the obligations aforesaid shall not be enforceable.

Neither the issuance of warehouse receipts by said principal to himself for grain owned in whole or in part by said principal, the co-mingling of grain owned by said principal with grain stored for others, or any violation, by said principal of the provisions of said Act or the rules and regulations issued by the Illinois Department of Agriculture thereunder shall constitute a defense in any action brought upon this bond.

Said bond shall be and remain in full force and effect from date of issue until sixty (60) days after notice in writing of cancellation shall have been received by the Illinois Department of Agriculture at its offices in Springfield, Illinois, from the principal or surety. If said notice shall be given by the surety a copy thereof shall be mailed on the same day to the principal. No cancellation of this bond and no cancellation of any of its provisions shall affect any liability accrued thereon at the time of said notice or which may accrue thereon during the said period of sixty (60) days after such notice.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

In witness whereof the said principal and surety have executed this instrument this _____ day of _____, A.D., 19_____.

(If not incorporated, sign here)

_____(SEAL)
(Principal)

By: _____(SEAL)

(If a corporation, sign here)

_____
(Principal)

By: _____

(Corporate Seal)

Attest: _____
Secretary

Surety: _____(SEAL)

Address: _____

By: _____

_____

(ACKNOWLEDGMENT OF PRINCIPAL)

STATE OF ILLINOIS)
) ss.
County of _____)

I, _____, a Notary Public, in the aforesaid County, in the state aforesaid, do hereby certify that

_____
(Name and Title)

_____

_____
(Name of Operator)

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

who is personally known to me, appeared before me this day in person and acknowledged that he signed, sealed and delivered the foregoing instrument as his free and voluntary act and as the free and voluntary act of the said principal, and that he has full power and authority to execute said bond, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____, A.D. 19_____ .

_____
Notary Public

_____

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED REPEALER

(ACKNOWLEDGMENT OF SURETY)

STATE OF ILLINOIS)
) ss.
County of _____)

I, _____, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that _____, who is personally known to me, appeared before me this day in person, represented that _____, a corporation of _____ is authorized to execute surety bonds within the State of Illinois, represented that he has full power and authority to execute said bond, on behalf of said surety, and acknowledged that he signed, sealed and delivered the foregoing instrument as his free and voluntary act and as the free and voluntary act of the said surety for whom he is authorized to act in this behalf, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____, A. D., 19_____.

_____
Notary Public

(Certified copy of power of Attorney for Attorney-in-fact of said surety must be attached.)

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Records of Committed Persons

2) Code Citation: 20 Ill. Adm. Code 107

3)

Section Numbers:	Proposed Action:
107.10	Amended
107.15	Amended
107.20	Amended
107.100	Amended
107.105	Amended
107.110	Amended
107.120	Amended
107.140	Amended
107.145	Amended
107.150	Amended
107.160	Amended
107.180	Amended
107.200	Amended
107.205	Amended
107.210	Amended
107.300	Amended
107.305	Amended
107.310	Amended
107.320	Amended
107.330	Amended
107.400	Amended
107.405	Amended
107.430	Amended
107.440	Amended
107.500	Amended
107.505	Amended
107.520	Amended
107.560	Amended

4) Statutory Authority: Implementing and authorized by Sections 3-2-2 and 3-6-3 of the Unified Code of Corrections [730 ILCS 5/3-2-2 and 3-6-3].

5) A Complete Description of the Subjects and Issues Involved: This rule is being amended consistent with two recent Illinois Supreme Court rulings. In Barger v. Peters, 163 Ill.2d 357, 645 N.E.2d 175 (1994), the court ruled that Public Act 88-311 violates the ex post facto prohibitions of the Federal and Illinois Constitutions with regard to those inmates who were convicted of an offense that was committed on or after September 10, 1990, to and including August 10, 1993, and who were or would have been eligible on August 10, 1993 for the 1.25 enhanced educational good conduct credit. This rulemaking sets forth eligibility criteria for persons affected by this ruling to receive the additional .25 days of good conduct credit for successful participation in educational programs. In the State of Illinois

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

v. Jameson, 162 Ill.2d 282, 642 N.E.2d 1207 (1994), the court ruled that persons are ineligible for earned good conduct credits if they are serving a sentence for a conviction as a Class X felon rather than merely being sentenced as a Class X offender. Changes due to the new Truth in Sentencing Law, Public Act 89-0404, which became effective on August 20, 1995, regarding earning of good time are also included. In addition, statutory references have been updated, language has been clarified, gender language has been updated to include references to females, and procedures have been updated.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State mandate.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Donald N. Snyder, Jr., Deputy Director
Illinois Department of Corrections
1301 Concordia Court
P.O. Box 19277
Springfield, Illinois 62794-9277
Phone: (217) 522-2666, extension 2082

All written comments received within 45 days after the date of this publication will be considered.

12) Initial Regulatory Flexibility Analysis: Not required; this rulemaking does not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER I: DEPARTMENT OF CORRECTIONS
SUBCHAPTER a: ADMINISTRATION AND RULES

PART 107
RECORDS OF COMMITTED PERSONS

SUBPART A: ADMISSION DOCUMENTS

Section
107.10 Applicability
107.15 Responsibilities
107.17 Definitions
107.20 Required Admission Documents

SUBPART B: DIMINUTION OF SENTENCE

Section
107.100 Applicability
107.105 Responsibilities
107.107 Definitions
107.110 Diminution of Felony Sentences
107.120 Good Time Schedules Applicable to Felony Sentences
107.130 Consecutive Sentences
107.140 Concurrent Sentences
107.145 Earned Good Conduct Credits
107.150 Revocation of Statutory Good Time and Good Conduct Credits
107.160 Restoration of Statutory Good Time and Good Conduct Credits
107.170 Institution Credits (Repealed)
107.180 Misdemeanant Good Time Allowance

SUBPART C: MERITORIOUS GOOD TIME

Section
107.200 Applicability
107.205 Responsibilities
107.207 Definitions
107.210 Awarding of Meritorious Good Time

SUBPART D: MAINTENANCE OF RECORDS

Section
107.300 Applicability
107.305 Responsibilities
107.307 Definitions
107.310 Access to Records
107.320 Disclosure of Master Record File Material for Youth Committed to the Juvenile Division - Court Agreement

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

107.330 Release of Clinical Records to Committed Persons and Authorized Attorneys (Adult Division) - Court Agreement
107.340 Release of Clinical Records to Committed Persons and Authorized Attorneys (Community Services Division)

SUBPART E: ACCESS AND REVIEW OF CRIMINAL HISTORY RECORD INFORMATION

Section
107.400 Applicability
107.405 Responsibilities
107.410 Definitions
107.420 Right to Access and Review
107.430 Requests for Access and Review
107.440 Challenge of Record

SUBPART F: EARNED GOOD CONDUCT CREDITS

Section
107.500 Applicability
107.505 Responsibilities
107.510 Definitions
107.520 Eligibility
107.530 Goal Statements
107.540 Program Goals
107.550 Goal Periods
107.560 Award of Earned Good Conduct Credits

AUTHORITY: Implementing Sections 3-2-2, 3-3-2, 3-5-1, 3-5-2, 3-6-3, 3-8-1, 3-10-1, 5-4-1, 5-8-6, and 5-8-7 of the Unified Code of Corrections [730 ILCS 5/3-2-2, 3-3-2, 3-5-1, 3-5-2, 3-6-3, 3-8-1, 3-10-1, 5-4-1, 5-8-6, and 5-8-7], Sections 1-7, 5-33 and 5-35 of the Juvenile Court Act of 1987 [705 ILCS 405/1-7, 5-33, and 5-35] and Section 2 of the County Jail Good Behavior Allowance Act [730 ILCS 130/2] and authorized by Section 3-7-1 of the Unified Code of Corrections [730 ILCS 5/3-7-1]. Subparts B and F are also implementing two Supreme Court rulings (Barger v. Peters, 163 Ill. 2d 357, 645 N.E.2d 175, 1994 and State of Illinois v. Jameson, 162 Ill. 2d 282, 642 N.E.2d 1207, 1994. Subpart D is also implementing two Consent Decrees (Beavers vs. Sielaff, #75 C 317, N.D. Ill., 1977, and Lower vs. Franzen, #78 C 1870, N.D. Ill., 1980).

SOURCE: Adopted at 8 Ill. Reg. 14572, effective August 1, 1984; amended at 10 Ill. Reg. 20497, effective January 1, 1987; amended at 13 Ill. Reg. 6992, effective May 1, 1989; emergency amendment at 14 Ill. Reg. 12273, effective July 17, 1990, for a maximum of 150 days; modified in response to an objection of the Joint Committee on Administrative Rules at 14 Ill. Reg. 15600, not to exceed the 150 day time limit of the original rulemaking; amended at 14 Ill. Reg. 18461, effective November 1, 1990; emergency amendment at 14 Ill. Reg. 20074, effective December 1, 1990, for a maximum of 150 days; amended at 15 Ill. Reg. 5638, effective April 15, 1991; emergency amendment at 17 Ill. Reg.

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

16215, effective September 17, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 2939, effective February 14, 1994; amended at 20 Ill. Reg. _____, effective _____.

SUBPART A: ADMISSION DOCUMENTS

Section 107.10 Applicability

This Subpart applies to the Adult and Juvenile Divisions~~,~~ and to the Community Services Division when sentences of periodic imprisonment are imposed.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.15 Responsibilities

a) Unless otherwise specified, the Director or Chief Administrative Officer may delegate responsibilities stated in this Subpart to another person or persons or designate another person or persons to perform the duties specified.
b) No other individual may routinely perform duties whenever a Section in this Subpart specifically states the Director or Chief Administrative Officer shall personally perform the duties. However, the Director or Chief Administrative Officer may designate another person or persons to perform the duties during periods of his or her temporary absence or in an emergency.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.20 Required Admission Documents

a) When a committed person is delivered to the custody of the Department, the following information must be included with items delivered pursuant to Sections 3-8-1, 3-10-1 and 5-4-1 of the Unified Code of Corrections ~~[Ill. Rev. Stat. 1991, ch. 38, para. 1003-8-1, 1003-10-1 and 1005-4-1]~~ [730 ILCS 5/3-8-1, 3-10-1, and 5-4-1] and Section 5-33 of the Juvenile Court Act of 1987 ~~[Ill. Rev. Stat. 1991, ch. 37, par. 805-33]~~ [705 ILCS 405/5-33]:
   1) The mittimus or judgment order which must include the indictment or petition number, sentence or disposition, offense, judge's name, date of sentence, dates for time served and, where applicable, whether the sentences are to be served concurrently or consecutively. In the case of a youth committed as a delinquent, a certified copy of the court order appointing the Juvenile Division legal custodian is also required.
   2) Any statement by the court of the basis for imposing the

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

sentence.

3) Any pre-sentence reports.
4) The number of days, if any, which the committed person has been in custody and for which he or she is entitled to credit against the sentence. Certification of jail credit time shall include any time served in the custody of the Illinois Department of Mental Health and Developmental Disabilities, time served in another state or federal jurisdiction, and any time served while on probation or periodic imprisonment.
5) A record of the committed person's time, his or her behavior and conduct while in the custody of the county. Any action on the part of the committed person, including but not limited to an escape attempt, participation in a riot, suicide attempt, which might affect security status, and a record of medical treatment, if any, should be included in the record.
6) The State's Attorney's Statement of Facts. If the statement is unavailable at the time of delivery, the statement shall be transmitted within 10 days of receipt by the clerk of the court.
7) Any medical or mental health record or summaries.
8) The name of the municipality(ies) where the arrest of the committed person and the commission of the offense occurred, if such municipality(ies) has a population of more than 25,000 persons.
9) All additional matters which the court directs the clerk to transmit.

b) If the required items listed in this Section are not received at the time of delivery of a committed person, admission to the Department's facilities may be denied.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART B: DIMINUTION OF SENTENCE

Section 107.100 Applicability

This Subpart applies to the Adult, Juvenile, and Community Services Divisions. However, none of the provisions contained in this Subpart apply to:

a) Persons who are committed to the Juvenile Division as delinquents;
b) Persons who are committed to the Department as a result of a finding of contempt; or
c) Persons who are serving sentences of periodic imprisonment in community correctional centers.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

Section 107.105 Responsibilities

a) Unless otherwise specified, the Director or Chief Administrative Officer may delegate responsibilities stated in this Subpart to another person or persons or designate another person or persons to perform the duties specified.
b) No other individual may routinely perform duties whenever a Section in this Subpart specifically states the Director or Chief Administrative Officer shall personally perform the duties. However, the Director or Chief Administrative Officer may designate another person or persons to perform the duties during periods of his or her temporary absence or in an emergency.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.110 Diminution of Felony Sentences

a) Committed persons serving indeterminate sentences shall appear before the Prisoner Review Board prior to their parole eligibility date after having served their minimum sentence or 20 years (whichever is less), less applicable statutory good time, and compensatory good time, and ~~and/or~~ good conduct credits.
b) In the event a committed person must serve the maximum indeterminate sentence, he or she shall be released after serving the maximum of the sentence, less applicable statutory good time, and compensatory good time, and ~~and/or~~ good conduct credits.
c) A committed person serving a determinate sentence shall be released after serving his or her determinate sentence, less good conduct credits.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.120 Good Time Schedules Applicable to Felony Sentences

a) Statutory good time on indeterminate sentences, with reference to the minimum and maximum sentences, shall be calculated in accordance with the following table for persons sentenced prior to June 1, 1977, if the schedule contained in the table would be more beneficial than awarding day for day good conduct credits as of February 1, 1978.

Statutory Good Time Calculations for Those Sentenced Prior to June 1, 1977*

SENTENCE	TIME TO BE SERVED
1st year	11 months

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

	SENTETIME TO BE SERVED
2nd year	1 year and 9 months
3rd year	2 years and 6 months
4th year	3 years and 2 months
5th year	3 years and 9 months
6th year	4 years and 3 months
7th year	4 years and 9 months
8th year	5 years and 3 months
9th year	5 years and 9 months
10th year	6 years and 3 months
11th year	6 years and 9 months
12th year	7 years and 3 months
13th year	7 years and 9 months
14th year	8 years and 3 months
15th year	8 years and 9 months
16th year	9 years and 3 months
17th year	9 years and 9 months
18th year	10 years and 3 months
19th year	10 years and 9 months
20th year	11 years and 3 months

*AGENCY NOTE: On the maximum sentence, six months of good time is earned for each additional sentence year.

b) Statutory good time on indeterminate sentences, with reference to the minimum and maximum sentences, shall be calculated in accordance with the following table for all persons sentenced to the Department of Corrections on or after June 1, 1977, but prior to February 1, 1978, for establishing the time credit for that portion of the sentence which was served prior to February 1, 1978.

Statutory Good Time Calculations for Those Sentenced on or after June 1, 1977*

SENTENCE	TIME TO BE SERVED
1st year	9 months
2nd year	1 year and 6 months
3rd year	2 years and 3 months
4th year	3 years
5th year	3 years and 9 months

*AGENCY NOTE: Three months good time shall be earned for each additional sentence year.

1) For those persons whose sentences are calculated under the table in subsection (b) of this Section, the remaining portion of the sentence served on or after February 1, 1978, shall be credited

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

with day for day good conduct credits.

2) For a person who is sentenced on or after June 1, 1977, but prior to February 1, 1978, for an offense committed prior to June 1, 1977, the table in subsection (a) of this Section shall be used if it would be more beneficial in calculating the minimum or ~~and/or~~ maximum sentence or both.

c) Compensatory good time shall be earned on those indeterminate sentences or portions thereof which are calculated under the statutory good time tables. Compensatory good time shall normally be awarded at the rate of seven and one-half (7 1/2) days for each month in custody. Committed persons shall receive compensatory good time on a prorated basis during the month placed in and released from custody in accordance with the following table.

Prorated Compensatory Good Time

INCOMING FELONS			RELEASED FELONS	
Day of Month Received	Days Credit	Scheduled Date of Release	Days Credit	New Release Date
2-4	6	1-4	0	1-4
5-9	5	5-9	1	4-8
10-14	4	10-14	2	8-12
15-19	3	15-19	3	12-16
20-24	2	20-24	4	16-20
25-28	1	25-28	5	20-23
29 plus	0	29 plus	6	23

d) Committed persons shall not be eligible to receive compensatory good time against that portion of their sentence which is calculated under day for day good conduct provisions.

1) A committed person shall not be awarded compensatory good time for any month during which he or she is reported by his or her work or program supervisor for carelessness, negligence or refusal to work, providing such action is recommended by the facility's Adjustment Committee and approved by the Chief Administrative Officer. No committed person shall lose any compensatory good time credits because he or she was unable to work or participate in a facility program through no fault of his or her own.

2) Any committed person placed in segregation or confinement for a period of three days or more during a given month pursuant to a hearing before an Adjustment Committee shall not be awarded compensatory good time for that month. However, no person shall lose compensatory good time for more than one month pursuant to such a hearing unless he or she is placed in segregation or confinement for at least 10 additional days during the second and

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

subsequent months.

3) Any committed person placed on investigative status shall receive compensatory good time for that month if the investigation findings indicate that the committed person did not commit a violation.

4) Every committed person assigned to a community correctional center shall be credited with compensatory good time unless an Adjustment Committee finds that he or she has violated disciplinary rules.

5) Any awarded compensatory good time may not be revoked.

e) Good conduct credits, with reference to the minimum and maximum sentences, shall be calculated by awarding one day of good conduct credit for each day served for all committed persons sentenced on or after February 1, 1978, if such credit would be more beneficial than statutory and compensatory good time credits. ~~Determinate sentences entered on or after February 1, 1978, shall receive day for day good conduct credits.~~

f) Good conduct credits, with reference to determinate sentences entered on or after February 1, 1978, for offenses which were committed prior to August 20, 1995, shall be calculated by awarding one day of good conduct credit for each day served.

g) Good conduct credits, with reference to determinate sentences for offenses committed on or after August 20, 1995, shall:

1) Not be awarded to any person for a term of imprisonment for first degree murder.

2) Be calculated by awarding 4.5 days per month for each month of imprisonment for persons serving a sentence for:

A) Attempt to commit first degree murder, solicitation of murder, solicitation of murder for hire, intentional homicide of an unborn child, aggravated criminal sexual assault, criminal sexual assault, aggravated kidnapping, aggravated battery with a firearm, heinous battery, aggravated battery of a senior citizen, or aggravated battery of a child; or

B) Home invasion, armed robbery, aggravated vehicular hijacking, aggravated discharge of a firearm, or armed violence with a category I weapon or category II weapon, when the court has entered a finding that the conduct leading to conviction for the offense resulted in great bodily harm to a victim.

3) Be calculated by awarding one day of good conduct credit for each day served on the period of imprisonment or recommittment as a parole to mandatory supervised release violator for all offenses not previously listed in subsection (g) of this Section.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

Section 107.140 Concurrent Sentences

When a committed person already subject to a sentence receives one or more concurrent sentences, he or she shall receive credit on the subsequently imposed sentences from the date of sentencing.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.145 Earned Good Conduct Credits

Committed persons who are enrolled in full-time substance abuse programs, correctional industry assignments, or vocational or academic educational programs approved by the Department may be eligible to receive earned good conduct credits in addition to good conduct credits awarded in accordance with this Part. Earned good conduct credits shall be awarded at the applicable rate ~~of .25 days prior to August 11, 1993 and earned good conduct credits shall be awarded at the rate of .50 days on or after August 11, 1993~~ for each day during which program goals have been achieved in accordance with 20 Ill. Adm. Code 107.Subpart F.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.150 Revocation of Statutory Good Time and Good Conduct Credits

a) Any committed person who is found guilty of misconduct, or violating departmental rules or the terms of parole or mandatory supervised release, may lose statutory good time or good conduct credits.

b) Statutory good time may be revoked at the discretion of the Director upon the recommendation of the Adjustment Committee and the Chief Administrative Officer, or the Deputy Director ~~Administrator~~ of the Community Services Division.

c) A maximum of 30 days of good conduct credits may be revoked from any committed person at the discretion of the Director during any 12 month period. If the amount of credit at issue exceeds 30 days or when, during any 12 month period, the cumulative amount of credit revoked exceeds 30 days, the Department shall submit its recommendation to revoke good conduct credits to the Prisoner Review Board for approval.

d) When an infraction is committed or discovered within 60 days of a committed person's scheduled release, the Department may revoke up to 30 days of good conduct credits without approval of the Prisoner Review Board. If the Department seeks to revoke more than 30 days, its recommendation for revocation of the additional good conduct credits shall be submitted to the Prisoner Review Board for its approval.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

Section 107.160 Restoration of Statutory Good Time and Good Conduct Credits

a) Statutory good time or good conduct credits may be restored by the Director, either by his or her own action or upon the recommendation of:
   1) The Administrative Review Board,
   2) The Adjustment Committee and the Chief Administrative Officer, or
   3) The Deputy Director ~~Administrator~~ of the Community Services Division.

b) In determining whether or not to restore good conduct credits or statutory good time, the Director may consider, among other matters:
   1) The nature of the incident which served as the basis for the loss of good time;
   2) The disciplinary proceedings which led to the revocation of good time;
   3) The complete master record file of the committed person;
   4) Any specific report or recommendation made concerning the committed person;
   5) The committed person's entire disciplinary record;
   6) The job performance of the committed person while in the custody of the Department;
   7) The educational program or achievements of the committed person while in the custody of the Department;
   8) The action of the committed person in:
      A) Saving the life of an employee or other committed person;
      B) Performing heroic service during a flood, tornado, or act of God;
      C) Volunteering for an exceptionally hazardous or dangerous assignment; or
      D) Assisting in maintaining control during a general disturbance.

c) A maximum of 30 days of good conduct credits may be restored to a committed person at the discretion of the Director during any 12 month period. If the amount of credit recommended for restoration exceeds 30 days, such request for restoration shall be submitted by the Director to the Prisoner Review Board. The Board may not restore more good conduct credits to a committed person than is recommended. Notification of the decision of the Director or the Prisoner Review Board shall be provided to the committed person.

d) The committed person may petition not more frequently than every three months through the Adjustment Committee for restoration of statutory good time or good conduct credits, stating the rationale for restoration. If the Adjustment Committee recommends the restoration of good time, said recommendation shall be forwarded through designated channels to the attention of the Director. Notification of the Director's decision shall be given to the committed person.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

_____)

Section 107.180 Misdemeanant Good Time Allowance

a) Misdemeanant good time behavior allowance shall be awarded for each month or 30 day unit as follows:
   1) Four days for the first month.
   2) Six days for each of the second, third, fourth, fifth, and sixth months or units of sentence.
   3) Eight days for each of the second six months or units of sentence.

b) Misdemeanant good time may be revoked or ~~and/or~~ withheld as a result of a disciplinary infraction.

c) Misdemeanants are not eligible to receive compensatory good time credit on their sentences.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART C: MERITORIOUS GOOD TIME

Section 107.200 Applicability

This Subpart applies to the Adult, Juvenile, and Community Services Divisions.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.205 Responsibilities

a) Unless otherwise specified, the Director or Chief Administrative Officer may delegate responsibilities stated in this Subpart to another person or persons or designate another person or persons to perform the duties specified.

b) No other individual may routinely perform duties whenever a Section in this Subpart specifically states the Director or Chief Administrative Officer shall personally perform the duties. However, the Director or Chief Administrative Officer may designate another person or persons to perform the duties during periods of his or her temporary absence or in an emergency.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.210 Awarding of Meritorious Good Time

a) In determining whether or not to award good conduct credits for

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

meritorious service, the Director may examine or consider, among other matters:

1) The complete master record file of the committed person.
2) Reports or recommendations made concerning the committed person.
3) The fact that the committed person has not violated any rule of the Department over a period of time.
4) The job performance of the committed person while in the custody of the Department.
5) The educational program or achievements of the committed person while in the custody of the Department.
6) The action of the committed person in:
   A) Saving the life of an employee or other committed person;
   B) Performing heroic service during a flood, tornado, or act of God;
   C) Volunteering for an exceptionally hazardous or dangerous assignment; or
   D) Assisting in maintaining control during a general disturbance.

b) The decision to grant meritorious good time may be initiated unilaterally by the Director.

c) In addition, petitions for granting meritorious good time may be submitted by any committed person or by any person or persons in the employ of the Department of Corrections on behalf of any committed person.

d) No committed person shall be granted more than 180 days of meritorious good time during a term of incarceration.

e) No persons who are committed for the following offenses shall be awarded more than 90 days of meritorious good time during a term of incarceration: first degree murder, reckless homicide while under the influence of alcohol or any other drug, aggravated kidnapping, kidnapping, aggravated criminal sexual assault, criminal sexual assault, deviate sexual assault, aggravated criminal sexual abuse, aggravated indecent liberties with a child, indecent liberties with a child, child pornography, heinous battery, aggravated battery of a spouse, aggravated battery of a spouse with a firearm, stalking, aggravated stalking, aggravated battery of a child, endangering the life or health of a child, cruelty to a child, or narcotic racketeering.

f) No persons who are serving a sentence for a conviction for any of the following offenses committed on or after August 20, 1995, shall be awarded any meritorious good time:

1) First degree murder, attempt to commit first degree murder, solicitation of murder, solicitation of murder for hire, intentional homicide of an unborn child, aggravated criminal sexual assault, criminal sexual assault, aggravated kidnapping, aggravating battery with a firearm, heinous battery, aggravated battery of a senior citizen, or aggravated battery of a child; or

2) Home invasion, armed robbery, aggravated vehicular hijacking,

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

aggravated discharge of a firearm, or armed violence with a category 1 weapon or category II weapon, when the court has entered a finding that the conduct leading to conviction for the offense resulted in great bodily harm to a victim.

gf) Habitual juvenile offenders or violent juvenile offenders shall not be eligible for meritorious good time.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART D: MAINTENANCE OF RECORDS

Section 107.300 Applicability

This Subpart applies to all divisions ~~and bureaus~~ of the Department.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.305 Responsibilities

a) Unless otherwise specified, the Director or Chief Administrative Officer may delegate responsibilities stated in this Subpart to another person or persons or designate another person or persons to perform the duties specified.

b) No other individual may routinely perform duties whenever a Section in this Subpart specifically states the Director or Chief Administrative Officer shall personally perform the duties. However, the Director or Chief Administrative Officer may designate another person or persons to perform the duties during periods of his or her temporary absence or in an emergency.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.310 Access to Records

a) The master record files of committed persons shall be confidential and access shall be limited to authorized persons. Committed persons shall not be permitted access to their master record files except as expressly permitted by law or this Subpart.

b) Medical records shall be disclosed to a committed person or to his or her authorized attorney upon receipt of a written request for the information and a release signed by the committed person. The medical records of a deceased committed person shall be released upon tender of letters of office from the Executor or the Administrator of the person's estate, or if no estate is required by law to be opened, then

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

upon receipt of an affidavit of heirship and a release.

c) Personnel of other correctional, welfare, educational, or law enforcement agencies may have access to a committed person's files as approved by the Chief Administrative Officer. The use and redisclosure of such files shall be consistent with applicable State and federal laws.

d) Access to the master record file of a person no longer in custody of the Department shall be provided in accordance with procedures applicable to committed persons.

e) The Department may require payment of copying costs for any records produced.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.320 Disclosure of Master Record File Material for Youth Committed to the Juvenile Division - Court Agreement

a) Definitions

1) Youth -- A person who is or has been committed to the Illinois Department of Corrections, Juvenile Division, pursuant to Section 5-33 of the Juvenile Court Act of 1987 ~~{Ill. Rev. Stat. 1991, ch. 37, par. 005-33}~~ [705 ILCS 405/5-33] or Section 5-8-6(c) of the Unified Code of Corrections ~~{Ill. Rev. Stat. 1991, ch. 38, par. 1005-8-6(c)}~~ [730 ILCS 5/5-8-6(c)]. This Section does not apply to record access for deceased youths.

2) Parent -- The natural mother or father or an adoptive parent of a youth, except a natural or adoptive parent whose parental rights have been terminated by Sections 2-29, 3-30, 4-27, or 5-31 of the Juvenile Court Act of 1987 ~~{Ill. Rev. Stat. 1991, ch. 37, pars. 002-29, 003-30, 004-27, or 005-31}~~ [705 ILCS 405/2-29, 3-30, 4-27, or 5-31] or Section 17 of the Adoption Act ~~{Ill. Rev. Stat. 1991, ch. 40, par. 1521}~~ [750 ILCS 50/17].

3) Guardian -- Individual(s) appointed by courts as guardian of the youth.

4) Authorized attorney -- A lawyer authorized in writing by the youth to inspect and copy his or her master record file; or a lawyer appointed by a court as attorney for a youth.

5) Records subject to inspection and copying -- This information is contained in the following documents: discharge order, face sheet, cancellation of warrants, warrants for apprehension, administrative-statewide transfer order, order of temporary transfer, dispositional order, court writs, preliminary hearing of parole violation, notice of charges, notification of alleged parole violations, police reports, report on youth's return to reception center, verification of birthdate, medical and dental records, reception center testing, academic assessments, vocational goals inventory, Department of Vocational

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

Rehabilitation referrals, chronological recording of activities and treatment by counselor assigned, monthly staffing conference reports, physical exam, medications record, immunization cards, special concerns, consent for treatment, release of medical information, monthly progress reports, group life adjustment, daily conduct reports, achievements, summary letters to Prisoner Review Board, academic or vocational ~~academic/vocational~~ progress reports, program assignment record, institutional goals and treatment plan, performance agreements, commendation reports, reports of disciplinary action, letters to and from institution requesting information, trust fund records, youth's transfer request, medical referrals, administrative memos, unusual incident reports, clinical transfer orders or action requests, authorized absence requests-approvals, correspondence, youth advocate's reports, notice of eligibility for parole, requests for special action, medical restrictions, illness and injuries record, school transcript, Prisoner Review Board sheet, official notice of parole, special orders and orders rescinding parole, clothing inventory, and personal property inventory.

6) Records subject to inspection and copying with professional guidance -- This information is contained in the following documents: assessment and assignment report, special case review, intake worksheet, social history, chaplain's reports, psychological evaluation and classification reports, psychiatric evaluation report, clinical correspondence and clinical reports from other agencies, psychiatric reports, administrative reviews, annual reviews, special case reviews, notice of eligibility of parole-narrative progress report, diagnostic treatment note(s), and psychological consultation referral(s).

7) Information not subject to inspection and copying by a youth, a parent or a non-institutional guardian -- Information reported in records contained in a master record file, the disclosure of which a clinician certifies in writing would result in a specific harm to the youth, a parent or a non-institutional guardian.

8) Clinician -- A psychiatrist, psychologist, or physician employed by the Department of Corrections.

9) Authorized personnel of the Department -- All program or security personnel in the institutional or field services divisions of the Illinois Department of Corrections.

10) Other correctional, welfare and law enforcement agencies -- Agencies designated in writing from time to time by the Director or the Deputy Director of the Juvenile Division of the Illinois Department of Corrections subject to Section 1-7 of the Juvenile Court Act of 1987 ~~{Ill. Rev. Stat. 1991, ch. 37, par. 001-7}~~ [705 ILCS 405/1-7].

11) Receiving agencies -- A Department or agency to whom custody of a youth is transferred by administrative order to the Juvenile Division or by a court order.

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

b) Rights of and Limitations on Record Access
   1) A youth, an authorized attorney, a parent, a guardian, personnel of other correctional, welfare or law enforcement agencies or receiving agencies may inspect and copy all records contained in the person's master record file; provided,
      A) The youth consents in writing to the inspection and copying of such records by an authorized attorney, a parent or non-institutional guardian;
      B) That information not subject to inspection and copying may be deleted from records otherwise available to a youth, a parent or a non-institutional guardian in accordance with procedures established in subsection (b) of this Section.
   2) Authorized personnel of the Department may inspect and copy records.
   3) All requests by the youth, authorized attorneys, parents and non-institutional guardians to copy or inspect file material shall be made in writing.
   4) The Juvenile Division shall comply with all written requests for records subject to inspection and copying within 15 days, and with all written requests for records subject to inspection and copying with professional guidance within 30 days, upon payment of copying costs except where waived by the Department upon a showing of indigency by the youth, parent, non-institutional guardian or authorized attorney.
c) Processing of Requests for Record Access
   1) With regard to the master record files of youths in Illinois Youth Center facilities or on authorized absence from, or transferred to an Illinois Department of Mental Health and Developmental Disabilities facility from a Juvenile Division facility:
      A) All written requests for inspection and copying should be directed to the Chief Administrative Officer of the Illinois Youth Center facility.
      B) The youth's assigned counselor or other program staff person:
         i) Will examine the records for information believed to be not subject to inspection and copying by a youth, a parent or guardian, and arrange for a clinician to review such records in accordance with procedures established in subsection (c)(4) of this Section.
         ii) Will forward copies of the records to requesting authorized attorney, parent, or non-institutional guardian upon payment or waiver of the costs; provided that where only record inspection has been requested, the requesting party shall be notified of a date, time and place at which the records may be inspected; and a youth, a parent or a non-institutional guardian will be notified of a date, time and place of a conference

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

at which records subject to inspection and copying with professional guidance may be inspected or ~~and/or~~ copied or both, and at which conference the counselor or other staff person will explain in detail the meaning of such records.

   2) With regard to the master record files of youths currently on parole:
      A) All requests for inspection and copying should be directed to the Chief Administrative Officer of the institution from which the youth was paroled. ~~Illinois Youth Center at St. Charles regarding male parolees and to the Chief Administrative Officer of the Illinois Youth Center at Warrenville regarding female parolees.~~
      B) The Chief Administrative Officer: ~~The youth's correctional parole agent or other program staff person:~~
         i) Will examine the records for information believed to be not subject to inspection and copying by youth, a parent or a guardian and arrange for a clinician to review such records in accordance with procedures established in subsection (c)(4) of this Section;
         ii) Will forward copies of records to the requesting youth, authorized attorney, parent or non-institutional guardian upon payment or waiver of costs; provided that where only record inspection has been requested, the requesting party shall be notified of a date, time and place at which the records may be inspected; a youth, a parent or a non-institutional guardian will be notified of a date, time and place of a conference at which records subject to inspection and copying with professional guidance may be inspected or ~~and/or~~ copied or both and at which conference the correctional parole agent or other staff person will explain in detail the meaning of such records.
   3) With regard to the master record files of persons formerly committed to the Juvenile Division:
      A) All requests for inspection and copying should be directed to the supervisor of the microfilm center in Springfield.
      B) The supervisor will contact the Chief Administrative Officer of the institution from which the youth was released or paroled. ~~arrange for the youth's correctional parole agent or other program staff person to process the record access request as provided in subsection (c)(2)(B) of this Section.~~
   4) A clinician shall examine all records submitted for review. If the clinician certifies in writing that the disclosure to a youth, a parent or a non-institutional guardian of information would result in a specific harm to such individuals:
      A) The information may be deleted from records inspected and

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

copied by the individuals who would be harmed;

B) The clinician's certificate shall be attached to such records inspected and copied by all individuals.

5) The Juvenile Division shall maintain a record in each master file which indicates:

A) The parties who have requested to inspect or copy records from the master record file;

B) The records inspected or copied from the master record file.

d) Before this Section of the Subpart may be modified, the Legal Staff shall be consulted. This Section was promulgated pursuant to settlement of litigation by order of the court. It may not be modified without the approval of the court.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.330 Release of Clinical Records to Committed Persons and Authorized Attorneys (Adult Division) - Court Agreement

a) Definitions

1) Committed Person -- A person who is or has been in the custody of the Illinois Department of Corrections, Adult Division.

2) Authorized Attorney -- Any attorney authorized in writing by the committed person to inspect and copy his clinical records.

3) Clinical Records -- Any mental health record prepared by a therapist in the course of providing mental health services to a committed person, which is maintained by the Department of Corrections. Clinical record does not include the therapist's personal notes, if such notes are kept in the therapist's sole possession for his or her own personal use and are not disclosed to any other person, except the therapist's supervisor, consulting therapist or attorney. If at any time such notes are otherwise disclosed, they shall be considered part of the committed person's record for purposes of this Section. Clinical record does not include testing material used in the course of providing services if the disclosure of such material would compromise the objectivity or fairness of the testing process.

4) Information not subject to inspection and copying by a committed person -- Information contained in clinical records, the disclosure of which a therapist certifies in writing is likely to result in physical harm to the committed person, other committed persons or Department employees, contractors, or volunteers.

5) Therapist -- A psychiatrist, physician, psychologist, counselor, social worker, or nurse providing mental health services.

6) Mental Health Services -- Psychiatric or psychological evaluation or treatment, or pharmaceuticals, or developmental disabilities programming.

b) Rights of and Limitations on Record Access

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

1) A committed person or authorized attorney may have access to and copy all clinical records contained in any file maintained by the Department of Corrections, provided:

A) The committed person consents in writing to the access to and copying of such records by an authorized attorney; and

B) Information not subject to access and copying by a committed person may be deleted from records otherwise available to a committed person in accordance with procedures established in this Section.

C) Information not subject to access and copying by a committed person shall be made available to an authorized attorney provided the attorney agrees in writing not to disclose that information to the committed person or any other person who may redisclose it to the committed person.

2) All requests by the committed person and authorized attorneys to inspect or copy clinical records must be made in writing and must contain a release of the Department of Corrections and its employees from any liability to the committed person as a result of disclosure or ~~and/or~~ dissemination of the records or the information contained therein, resulting from the access permitted to the authorized attorney or ~~and/or~~ committed person.

3) The Adult Division shall comply with all written requests for records:

A) By promptly producing copies of records after either payment of copying costs by the committed person or authorized attorney or a waiver of costs by the Department. Costs shall be waived upon a showing of the committed person's indigency. The determination of indigency shall be made promptly by the officers to whom the written request is sent, in accordance with subsection (c)(1) of this Section; or

B) By promptly making the requested records available for inspection.

c) Processing of Requests for Record Access

1) All written requests:

A) With regard to the clinical records of committed persons currently committed to an Adult Division facility should be directed to the Chief Administrative Officer of the institution in which the person resides;

B) With regard to the clinical records of committed persons on authorized absence from an Adult Division facility or transferred to an Illinois Department of Mental Health and Developmental Disabilities facility should be directed to the Chief Administrative Officer of the institution in which the person last resided;

C) With regard to the clinical records of committed persons currently on parole should be directed to the Chief Administrative Officer of the institution from which the

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

person is paroled; and

D) With regard to the clinical records of persons formerly committed to the Adult Division should be directed to the supervisor of the microfilm center in Springfield.

2) Upon receipt of the request for records, the records office supervisor, supervisor of the microfilm center, or a designee, shall either:

A) Promptly make the records available for inspection by the committed person or authorized attorney; or

B) Promptly forward copies of the records to the committed person or authorized attorney after payment or waiver of the costs.

3) The author of the reports or, if the original author is unavailable, a qualified therapist, may examine all records requested. If the author or another therapist certifies in writing that the disclosure of information to a committed person is likely to result in physical harm to committed persons or other persons:

A) The information may be deleted from the records disclosed to the committed person; and

B) The author's or therapist's certificate shall be attached to such records inspected and copied by all persons.

If a document contains information certified to be likely to result in physical harm to the committed person or others, only the information so certified may be deleted from the records disclosed to the committed person.

4) The Adult Division shall maintain a record in each committed person's file which indicates:

A) The parties who have requested to inspect or copy clinical records; and

B) The clinical records inspected or copied.

d) Before this Section of the Subpart is modified, Department legal staff must be consulted. This Section was promulgated pursuant to settlement of litigation by order of the court. It may not be modified without approval of the court.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART E: ACCESS AND REVIEW OF CRIMINAL HISTORY RECORD INFORMATION

Section 107.400 Applicability

This Subpart applies to correctional facilities within the Adult, Juvenile, and Community Services Divisions ~~of the Department of Corrections (Department)~~.

(Source: Amended at 20 Ill. Reg. _____, effective

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

_____)

Section 107.405 Responsibilities

a) Unless otherwise specified, the Director or Chief Administrative Officer may delegate responsibilities stated in this Subpart to another person or persons or designate another person or persons to perform the duties specified.

b) No other individual may routinely perform duties whenever a Section in this Subpart specifically states the Director or Chief Administrative Officer shall personally perform the duties. However, the Director or Chief Administrative Officer may designate another person or persons to perform the duties during periods of his or her temporary absence or in an emergency.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.430 Requests for Access and Review

a) A request to obtain access to and review Criminal History Record Information, local, state, or federal, shall be made in writing to the office designated by the Chief Administrative Officer.

b) A staff member shall inform the committed person of any applicable fees and assist the committed person in completing and processing all applicable forms.

c) Upon receipt by the facility of the transcript of the Criminal History Record Information, the committed person shall be allowed to review the transcript while in the presence of a staff member.

d) The committed person shall, upon request, be provided with a copy of the transcript which has been stripped of all personal identifiers, including, but not limited to, the names and addresses of the committed person, victims, or witnesses.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.440 Challenge of Record

a) If a committed person is not satisfied that his or her Criminal History Record Information is accurate, he or she may submit a written request to challenge the record.

b) A staff member shall advise the committed person of the challenge, appeal and complaint process and shall assist him or her in preparing the appropriate forms for submission.

c) If the criminal history record is corrected, the committed person may submit a written request for a listing of all non-criminal justice agencies that have received a copy of his or her criminal history

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

record.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART F: EARNED GOOD CONDUCT CREDITS

Section 107.500 Applicability

This Part applies to the Adult, Juvenile, and Community Services Divisions ~~of the Department~~.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.505 Responsibilities

a) Unless otherwise specified, the Director, Chief Administrative Officer, or program administrator may delegate responsibilities stated in this Subpart to another person or persons or designate another person or persons to perform the duties specified.

b) No other individual may routinely perform duties whenever a rule in this Subpart specifically states the Director, Chief Administrative Officer, or program administrator shall personally perform the duties. However, the Director, Chief Administrative Officer or program administrator may designate another person or persons to perform the duties during periods of his or her temporary absence or in an emergency.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.520 Eligibility

a) Committed persons who, on or after August 11, 1993, are engaged full-time in substance abuse programs, correctional industry assignments, or academic or vocational education programs approved by the Department shall be eligible to receive earned good conduct at the rate of .50 a day provided:
   1) They are eligible to receive good time in accordance with 20 Ill. Adm. Code 107.Subpart B;
   2) They are not committed as habitual juvenile offenders or violent juvenile offenders;
   3) They are not assigned to a boot camp or electronic detention program or a mental health unit;
   4) They are not serving a sentence for a conviction for first degree murder, a Class X felony, criminal sexual assault, felony criminal sexual abuse, aggravated criminal sexual abuse,

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

aggravated battery with a firearm, or any predecessor or successor offenses with the same or substantially the same elements, or attempt, solicitation, or conspiracy to commit any of the foregoing offenses;
   5) They are not serving a sentence for a conviction for any of the following offenses committed on or after August 20, 1995:
      A) First degree murder, attempt to commit first degree murder, solicitation of murder, solicitation of murder for hire, intentional homicide of an unborn child, aggravated criminal sexual assault, criminal sexual assault, aggravated kidnapping, aggravated battery with a firearm, heinous battery, aggravated battery of a senior citizen, or aggravated battery of a child; or
      B) Home invasion, armed robbery, aggravated vehicular hijacking, aggravated discharge of a firearm, or armed violence with a category I weapon or category II weapon, when the court has entered a finding that the conduct leading to conviction for the offense resulted in great bodily harm to a victim;
   6) They have not been convicted of a felony committed after they have received a previous award of educational or earned good conduct credits;
   7) They have not previously served more than one prior sentence of imprisonment for a felony in an adult correctional facility;
   8) They achieve the goals established by the Department within a specified time period; and
   9) They are not removed from the program for failure to comply with program requirements or for disciplinary reasons.

b) Committed persons who are not eligible under subsection (a) of this Section and who enroll full-time in an academic or vocational education program approved by the Department shall be eligible to receive earned good conduct credits at the rate of .25 provided:
   1) They are eligible to receive good time in accordance with 20 Ill. Adm. Code 107.Subpart B;
   2) The offense for which they were convicted was committed on or after September 10, 1990, up to and including August 10, 1993;
   3) They have not been convicted of first degree murder, second degree murder, or a Class X felony;
   4) They have not been convicted of a felony which was committed after a previous award of educational or earned good conduct credits;
   5) They achieve the educational goals established by the Department within a specified time period; and
   6) They are not removed from the program for failure to comply with program requirements or for disciplinary reasons.

cb) Full-time assignment to a program for which a committed person may be eligible to receive earned good conduct credits shall mean:
   1) The committed person is housed at a residential substance abuse

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

program facility or unit or is normally scheduled to participate in substance abuse programming at least 15 hours a week;

2) The committed person is normally scheduled to work with or receive job training from correctional industries at least four hours a day, five days per week; or

3) The committed person is a student enrolled in an educational program that has classes that are normally scheduled to meet a minimum of 15 hours a week; or the committed person is enrolled in college academics for a minimum of six credit hours per module or 12 credit hours per semester.

de) Committed persons shall only be eligible to receive earned good conduct credits for participation in one full-time program or assignment at a time.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 107.560 Award of Earned Good Conduct Credits

Within 15 working days, whenever feasible, after completion of the goal period or removal from the program, the program administrator or Chief Administrative Officer shall:

a) Determine whether the committed person achieved the required goals or was making satisfactory progress toward achieving such goals in accordance with Section 107.550(f).

b) Document the determination of ineligibility or the number of calendar days during the goal period for which the committed person is eligible to receive earned good conduct credits. The days eligible for the award shall be the number of calendar days during the goal period, less the total number of days of lockdowns, days the committed person was absent, and days in which class or the program assignment was cancelled.

c) Ensure good conduct credits earned are computed at the appropriate rate, .25 or .50, in accordance with Section 107.520(a) or (b).

~~1) Prior to August 11, 1993, the rate is .25.~~

~~2) On or after August 11, 1993, the rate is .50.~~

d) The award of earned good conduct credits shall be subject to the review and approval of the Director. A copy of the award of earned good conduct credits shall be filed in the committed person's master record file.

e) Committed persons shall be advised in writing of the award of earned good conduct credits or the determination of ineligibility of the award.

f) Committed persons may grieve the decision not to award earned good conduct credits under 20 Ill. Adm. Code 504.Subpart F.

g) New goal periods and goals shall be established upon continued placement or re-enrollment in educational programs or continued placement in substance abuse programs or correctional industry

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENT

assignments in accordance with this Subpart.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Procedures and Requirements for Determining Loan Priorities for Municipal Wastewater Treatment Works

2) Code Citation: 35 Ill. Adm. Code 366

3) Section Numbers: Proposed Action:

366.101	Amend
366.102	Amend
366.103	New
366.104	Renumber
366.105	Renumber and Amend
366.106	Renumber
366.107	Renumber
366.202	Amend
366.205	Amend
366.206	Amend
366.304	Amend
366.307	Amend

4) Statutory Authority: Implementing and authorized by Sections 19.1 through 19.8 of the Environmental Protection Act [415 ILCS 5/19.1 through 19.8].

5) A Complete Description of the Subjects and Issues Involved: These amendments to the Illinois Environmental Protection Agency's Procedures and Requirements for Determining Loan Priorities for Municipal Wastewater Treatment Works are necessitated by the 1990 Census data and by changes in the procedures of the Illinois Department of Public Health and the Department of Commerce and Community Affairs that affect the Illinois Environmental Protection Agency's loan priority calculations.

6) Will this proposed rulemaking replace any emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a mandate under Section 3 of the State Mandates Act [30 ILCS 805/3]. These proposed amendments are consistent with the policy objectives set out in Title IV-A of the Environmental Protection Act [415 ILCS 5/IV-A].

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this rulemaking may be submitted in

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

writing for a period of forty five (45) days following publication of this notice to:

Ron Drainer, Manager
Grants Administration
Division of Water Pollution Control
Bureau of Water
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield Illinois 62794-9276
(217) 782-2027

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The water pollution control revolving loan program is statutorily limited to units of local government; consequently only small municipalities seeking loans to upgrade their wastewater treatment-related infrastructure are affected by this rulemaking.

B) Reporting, bookkeeping and other procedures required for compliance: This rulemaking will not require additional reporting, bookkeeping or other procedures not already required by previously established state and federal regulations.

C) Types of professional skills necessary for compliance: No additional professional skills are required by this rulemaking.

13) Regulatory Agenda on which this rulemaking was summarized: January 1995.

The full text of the Proposed Rules begins on the next page:

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 366
PROCEDURES AND REQUIREMENTS FOR
DETERMINING LOAN PRIORITIES FOR MUNICIPAL WASTEWATER
TREATMENT WORKS

SUBPART A: INTRODUCTION

Section
366.101 Purpose
366.102 Definitions
366.103 Incorporations by Reference
366.104~~103~~ Priority System and Project Priority List
366.105~~104~~ Funding Allocations
366.106~~105~~ Pre-applications
366.107~~106~~ Facility Planning

SUBPART B: PROCEDURE FOR CALCULATING THE LOAN PRIORITY INDEX OF SERVICE CONTINUATION PROJECTS

Section
366.201 Formula for Computing the Loan Priority Index for Service Continuation Projects
366.202 A1 Factor (Financial Impact)
366.203 A2 Factor (Water Quality)
366.204 A3 Factor (Organic Load)
366.205 A4 Factor (Assessment of Existing Facilities)
366.206 A5 Factor (Operational Excellence)

SUBPART C: PROCEDURE FOR CALCULATING THE LOAN PRIORITY INDEX OF SERVICE EXPANSION PROJECTS

Section
366.301 Formula for Computing the Loan Priority Index for Service Expansion Projects
366.302 B1 Factor (Financial Impact)
366.303 B2 Factor (Water Quality)
366.304 B3 Factor (Economic Benefit)
366.305 B4 Factor (Existing Utilization)
366.306 B5 Factor (Operational Excellence)
366.307 B6 Factor (Health Hazard)

SUBPART D: PROCEDURE FOR CALCULATING LOAN PRIORITY INDEX FOR NEW SERVICE PROJECTS

Section

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

366.401 Formula for Computing the Loan Priority Index for New Service Projects
366.402 C1 Factor (Financial Impact)
366.403 C2 Factor (Water Quality)
366.404 C3 Factor (Organic Load)
366.405 C4 Factor (Health Hazard)

SUBPART E: PROCEDURE FOR CALCULATING LOAN PRIORITY INDEX FOR COMBINED SEWER SERVICE PROJECTS

Section
366.501 Formula for Computing the Loan Priority Index for Combined Sewer Projects
366.502 D1 Factor (Financial Impact)
366.503 D2 Factor (Drainage Area)
366.504 D3 Factor (Flooding Frequency)
366.505 D4 Factor (Basement Backups)
366.506 D5 Factor (Percentage of Basements Affected)

SUBPART F: PROCEDURE FOR APPLICATION OF SCORING CONVENTIONS

Section
366.601 Scoring Conventions

APPENDIX A Waterbody Specific Information
APPENDIX B Service Continuation A4 Factor Scoring Review Sheet
APPENDIX C Excellence of Operation Scoring Review Sheet For Local Government Units That Own Wastewater Treatment Facilities
APPENDIX D Excellence of Operation Scoring Review Sheet For Local Government Units That Own Only Wastewater Collection Facilities

AUTHORITY: Implementing and authorized by Sections 19.1 through 19.8 of the Environmental Protection Act [415 ILCS 5/19.1-19.8]

SOURCE: Adopted at 14 Ill. Reg. 8121, effective May 14, 1990; amended at 20 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 366.101 Purpose

This Part sets forth the procedures and requirements established by the Illinois Environmental Protection Agency (IEPA) for determining priorities in awarding financial assistance for the construction of municipal wastewater treatment works under the Environmental Protection Act (The Act) [415 ILCS 5/19.1-19.9] ~~[Ill.--Rev.--Stat.--1990-Supp.,-ch.-111-1/2,-pars.-1019.1-through 1019.8]~~ and Title VI of the Federal Clean Water Act (33 U.S.C. 1281 et seq.).

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 366.102 Definitions

a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act [415 ILCS 5] ~~{Ill.--Rev. Stat.--1988-Supp.,-ch.-111-1/2,-pars.-1001-et-seq.}~~, the Federal Clean Water Act (33 U.S.C. 1281 et seq.) and regulations adopted under these Acts, including 35 Ill. Adm. Code: Subtitle C, Part 365.

b) For purposes of these rules, the following definitions apply:

"Agency" -- Illinois Environmental Protection Agency.

"Combined Sewer Service Projects" -- Projects constructed in a combined sewer service area which are intended to reduce or eliminate street, area and basement flooding.

"Fund" -- The Water Pollution Control Revolving Fund as authorized by P.A. 85-1135, effective September 1, 1988.

"Intended Use Plan" -- A plan which includes a description of the short and long term goals and objectives of the Fund, project categories, discharge requirements, terms of financial assistance and the communities to be served.

"Monitoring Reports" -- Reports submitted in response to permits issued under the authority of the Federal Clean Water Act (33 U.S.C. 1281 et seq.), the Environmental Protection Act [415 ILCS 5] ~~{Ill.-Rev.-Stat.-1988-Supp.,-ch.-111-1/2,-par.-1001-et-seq.}~~, and regulations adopted under these Acts, including discharge (NPDES) permits and State operating permits.

"New Service Project" -- Projects which will provide wastewater collection, transportation or treatment for an unsewered local government unit.

"P.E. BOD" -- A term used to evaluate the impact of industrial or other waste on a treatment works or streams in terms of five day biochemical oxygen demand. One P.E. BOD equals 0.17 pounds (77g).

"Permits" -- National Pollutant Discharge Elimination System (NPDES) permits and State operating permits as described in 35 Ill. Adm. Code~~:--Subtitle-C,-Part~~ 309.

"Priority System" -- A methodology used to rank projects for inclusion on the project priority list.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

"Project Priority List" -- An ordered listing of projects which the Agency has determined are eligible to receive financial assistance from the Fund.

"Service Continuation Project" -- Projects for the improvement, upgrade, rehabilitation, renovation, and/or replacement of wastewater treatment works.

"Service Expansion Project" -- Projects to expand capacity of existing wastewater treatment works.

"Title VI" -- Title VI of the Federal Clean Water Act (33 U.S.C. 1281 et seq.).

"USEPA Reach File" -- Hydrologic Nomenclature System developed by USEPA to identify and locate specific waterbodies.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 366.103 Incorporations by Reference

U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census: 1990 Census Population and Housing: Summary Social Economic and Housing Characteristics, Illinois, Table 10, 1990 CPH-5-15 (no later editions or amendments).

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 366.104~~103~~ Priority System and Project Priority List

a) Financial assistance will be provided from the Fund only to projects which are identified on the project priority list.

b) This Part sets forth a priority system to be used to rank projects for inclusion on the project priority list. The ranking of a project is as calculated under Subparts B, C, D and E of this Part.

c) The project priority list shall be published annually in the preliminary Water Pollution Control Program Plan developed in accordance with Section 106 of the Federal Clean Water Act (33 U.S.C. 1256). After the public hearing is held to discuss the Program Plan, the Agency shall evaluate and consider any public comments received concerning the project priority list. The final project priority lists shall be published in the final Water Pollution Control Program Plan.

d) The Agency will develop a priority list with four (4) separate classes of projects:
   1) Service Continuation Projects
   2) Service Expansion Projects

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

3) New Service Projects
4) Combined Sewer Service Projects

e) Data provided in the applicant's pre-application will determine the appropriate class for each project for which assistance is requested from the Fund.

(Source: Section 366.104 renumbered from Section 366.103 and amended at 20 Ill. Reg. _____, effective _____)

Section 366.105~~104~~ Funding Allocations

a) In the development of its priority list, the Agency will allocate available loan funds to the four major classes of projects in proportion to the relative needs of the State for each project class, subject to the limitations of Section 602(b)(6) of the Clean Water Act (33 U.S.C. 1382(b)(6)).

b) Annual allocations of available loan funds to each class shall initially be made on the basis of State wastewater needs as identified in the pre-applications for projects that qualify for inclusion on the Intended Use Plan for that fiscal year in accordance with the requirements of 35 Ill. Adm. Code 365.410(c). ~~which--are--part--of approved--facilities--plans-(35-Ill.--Adm.--Code-365:--Subtitle-B)-as-of the-pre-application-filing-deadline-(35-Ill.--Adm.--Code:--365:Subpart B):---For--the--1991-Intended-Use-Plan-only,-the-initial-allocation-to project-classes-shall-be-based-on--State--needs--as--identified--in--a statewide-survey-of-wastewater-needs-(Section-19.7-of-the-Act).~~

c) After January 1 of each fiscal year, the Agency may adjust its allocations of available funds among project classes in the Intended Use Plan (see 35 Ill. Adm. Code 365.420~~402~~) to reflect the relative needs contained in completed loan applications, subject to the overall availability of loan funds for that fiscal year.

d) Loan funds available from State and federal appropriations during the capitalization period authorized by Section 607 of the Clean Water Act to capitalize the Water Pollution Control Revolving Fund will be subject to an equal division between the service area of the Metropolitan Water Reclamation District of Greater Chicago and the area which is comprised of the geographical balance of the state, to the extent that projects in either area in any fiscal year have qualified to receive loan assistance and are ready to proceed in accordance with the criteria for loan award (see 35 Ill. Adm. Code 365.430~~403~~).

e) If sufficient projects in either area are not able to complete a loan application in any fiscal year to permit an equal division of the above funds, loans will be made to those projects which are able to complete a loan application to the extent that the appropriated funds are available.

f) Any imbalance in the division of the total loan funds appropriated during the capitalization period authorized by the Clean Water Act to capitalize the Water Pollution Control Revolving Fund shall be carried forward from year to year and shall be applied as projects are able to complete a loan application to achieve an accumulatively equal distribution subject to the constraints of Section 366.105 and this Part.

(Source: Section 366.105 renumbered from Section 366.104 and amended at 20 Ill. Reg. _____, effective _____)

Section 366.106~~105~~ Pre-applications

a) A local government unit may submit a pre-application at any time. The pre-application must identify the class of the project, the discharge location point, the scope of the project, the population tributary to the project, a cost estimate and schedule for completion of the project.

b) An applicant is required to renew its pre-application annually.

c) Pre-applications must be received by March 31st of the preceding fiscal year to be included on the Intended Use Plan.

d) A project with approved facility planning may be added to the priority list at any time by the submission of a pre-application.

(Source: Section 366.106 renumbered from 366.105 at 20 Ill. Reg. _____, effective _____)

Section 366.107~~106~~ Facility Planning

a) A project's priority will be adjusted to reflect completed and approved facility planning (see 35 Ill. Adm. Code 365: Subpart E).

b) Projects may be split into more than one project, deleted or modified at the option of the applicant on the priority list as a result of the approval of the facility planning.

(Source: Section 366.107 renumbered from 366.106 at 20 Ill. Reg. _____, effective _____)

SUBPART B: PROCEDURE FOR CALCULATING THE LOAN PRIORITY INDEX OF SERVICE CONTINUATION PROJECTS

Section 366.202 Al Factor (Financial Impact)

Al is a factor which evaluates the financial impact of wastewater improvements on the residents of the municipality. The Al factor is based on median household income for the smallest governmental entity that encompasses the applicant's service area as presented in the 1990 Census Populations and Housing, Summary Social Economic and Housing Characteristics, Illinois, Table 10, as published by the U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census or the ~~The~~ applicant will provide a

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

determination of the mid-point of the distribution of the annual incomes of at least 80% of the households in the project service area (commonly known as median household income). The A1 factor is based on median household income and is calculated as follows:

Greater than $0 but less than $15,000	1.10
$15,000 - $19,999	1.09
$20,000 - $24,999	1.08
$25,000 - $29,999	1.07
$30,000 - $34,999	1.06
$35,000 - $39,999	1.05
$40,000 - $44,999	1.04
$45,000 - $49,999	1.03
$50,000 - $54,999	1.02
$55,000 - $59,999	1.01
Greater than $59,999	1.00
~~Less than $10,000~~	~~1.10~~
~~$10,000 - $14,999~~	~~1.09~~
~~$15,000 - $19,999~~	~~1.08~~
~~$20,000 - $24,999~~	~~1.07~~
~~$25,000 - $29,999~~	~~1.06~~
~~$30,000 - $34,999~~	~~1.05~~
~~$35,000 - $39,999~~	~~1.04~~
~~$40,000 - $44,999~~	~~1.03~~
~~$45,000 - $49,999~~	~~1.02~~
~~$50,000 - $54,999~~	~~1.01~~
~~Greater than $54,999~~	~~1.00~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 366.206 A5 Factor (Operational Excellence)

A5 is a factor which evaluates the operation of the existing facilities and provides a bonus for excellence of operation. For mechanical treatment and sewage collection facilities that have exhibited excellence in operation and maintenance by receiving a score of 15 ~~16~~ or greater out of a possible composite score of 20, or lagoon treatment facilities that have exhibited excellence in operation and maintenance by receiving a score of 13.5 or greater out of a possible composite score of 20, 1.5 points will be awarded. All others will be 1.0. This factor will be calculated by the Agency using the criteria in Appendix C or D.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

SUBPART C: PROCEDURE FOR CALCULATING THE LOAN PRIORITY INDEX OF SERVICE EXPANSION PROJECTS

Section 366.304 B3 Factor (Economic Benefit)

a) B3 is a factor that evaluates the potential for economic benefit ~~and the managerial capability of the municipality~~. Additional points will be awarded for having an annual unemployment percentage above the State average as determined by the Department of Employment Security pursuant to Section 43a.08 of the Civil Administrative Code of Illinois (Code) [20 ILCS 5/43a.08] ~~(Ill. Rev. Stat. 1987, ch. 127, par. 43a.08)~~ and 20 CFR 634 (1989) (no subsequent dates or editions) ~~and/or for being a Certified City as determined by the Department of Commerce and Community Affairs pursuant to Section 46.37(a) of the Code~~. Information concerning a municipalities unemployment rate can be obtained from: Economic Information and Analysis Section, Department of Employment Security, 555 S. Pasfield, Floor 2, Springfield, Illinois 62704 (217) 785-4624.

b) B3 is calculated as (unemployment rate factor) ~~+ (Certified City factor)~~ + 1.

~~1)~~ Where the applicant's unemployment rate is above the State average, unemployment rate points will be awarded as follows:

less than 1% above the state average = 0.0
1-2.9% ~~1-3%~~ above the state average = 0.1
3.0-5% ~~4-5%~~ above the state average = 0.2
5% above state average = 0.3

~~2) Where the municipality is participating in DCCA's Certified City Program, 0.05 point is awarded; and if the applicant is a Certified City, 0.1 points will be awarded.~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 366.307 B6 Factor (Health Hazard)

B6 is a health hazard factor for use with failing septic systems in unsewered areas to be served by collection system extensions. Projects that are determined by the responsible public health agency to be necessary to correct an existing public health hazard ~~on the Illinois Department of Public Health's annual Health Hazard list established by (Ill. Rev. Stat. 1987, ch. 127, par. 454.4a)~~ will be assigned a value of 1.1 and all others will be assigned a value of 1.0.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Sale of Bonds

2) Code Citation: 77 Ill. Adm. Code 1400

3)

Section Numbers:	Proposed Action:
1400.5	Repeal
1400.20	Amendment
1400.40	Repeal
1400.50	Repeal
1400.60	Repeal
1400.70	Repeal
1400.80	Repeal
1400.90	Repeal
1400.100	Repeal
1400.110	Renumber

4) Statutory Authority: Implementing Section 4.17 and authorized by Section 4.01 of the Illinois Health Facilities Authority Act [20 ILCS 3705/4.01 and 4.17]

5) A Complete Description of the Subjects and Issues Involved: Section 4.17 of the Illinois Health Facilities Authority Act (the "Act") authorizes the Illinois Health Facilities Authority (the "Authority") to charge to, and apportion among, institutions seeking financing through the Authority under the Act the Authority's administrative costs and expenses through application, annual and other fees. The Authority proposes through the rule amendment to establish the existing level of its annual fee as a ceiling and to allow the annual fee to be adjusted by the Authority's members subject to this ceiling. The Authority also proposes to eliminate the portion of its rules describing various financing costs inasmuch as such descriptions (i) seem unnecessary given borrowers' understanding of the financing process and their responsibility for such costs and (ii) in some cases have become incomplete or dated as a result of changes in the methods of accomplishing such financings.

6) Will the proposed amendments replace an emergency rule currently in effect? No

7) Do the proposed amendments contain an automatic repeal date? No

8) Do the proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

11) Time, Place and Manner in which interested parties may comment on this proposed rulemaking: Interested parties may submit comments, data, views or arguments concerning this rulemaking in writing to:

Illinois Health Facilities Authority
180 North Stetson Avenue
Suite 1100, Chicago, Illinois 60601
Attention: Mary McInerney, Executive Director

The Authority will consider all written comments received at the above address within 45 days after the date of publication of this notice.

12) Initial Regulatory Flexibility Analysis:

A) Date Proposed Amendments were submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: December 26, 1995.

B) Types of Small Businesses Affected: To the extent that the proposed amendments affect small businesses, they should have a favorable impact by allowing for a reduction in the cost of financing obtained through the Authority.

C) Reporting, bookkeeping or other procedures required for compliance: No new requirements.

D) Types of professional skills necessary for compliance: No new professional skills are needed.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: It was not anticipated.

The full text of the proposed amendments begins on the next page:

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER III: ILLINOIS HEALTH FACILITIES AUTHORITY

PART 1400
SALE OF BONDS

Section
1400.5 Fees and Costs Applicable to the Sale of Bonds (Repealed)
1400.10 Authority Fee Initial
1400.20 Authority's Annual Fee ~~Authority Fee---Application (For short-term Equipment Financings equal to or less than $3,000,000 and utilizing standardized legal documents) (Repealed)~~
1400.30 Payment of Application Fee (Repealed)
1400.40 Financial Feasibility Costs (Repealed)
1400.50 Bond Rating Agency Fees (Repealed)
1400.60 Printing Costs (Repealed)
1400.70 Bond Counsel (Repealed)
1400.80 Trustee Fees (Repealed)
1400.90 Title Insurance (Repealed)
1400.100 Payment of Fees and Costs (Repealed)
1400.110 Authority's Annual Fee (Renumbered)
TABLE A Authority Application (Except for short-term financing etc.) (Repealed)
TABLE B Authority Application Fee (For short-term financing etc.) (Repealed)

AUTHORITY: Implementing Section 4.17 and authorized by Section 4.01 of the Illinois Health Facilities Authority Act [20 ILCS 3705/4.17 and 4.01].

SOURCE: Adopted at 3 Ill. Reg. 38, p. 213, effective September 21, 1979; amended at 6 Ill. Reg. 5507, effective April 19, 1982; codified at 8 Ill. Reg. 18471; amended at 18 Ill. Reg. 10712, effective June 30, 1994; amended at 20 Ill. Reg. _____, effective _____.

Section 1400.5 Fees and Costs Applicable to the Sale of Bonds (Repealed)

~~This Part is a summary of certain fees and costs to be charged to an applicant in connection with an Illinois Health Facilities Authority financing. Those fees and expenses which may be determined in advance have been briefly described. Other fees which vary by applicant and by project have been briefly described. The Authority will provide estimates of the variable fees upon request by any prospective applicant. In addition, other fees may be incurred with respect to a particular financing and will be discussed by the Authority with the applicant.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

Section 1400.20 Authority's Annual Fee ~~Authority Fee---Application (For short-term Equipment Financings equal to or less than $3,000,000 and utilizing standardized legal documents) (Repealed)~~

~~a)~~ Each institution which obtains financing through the Authority shall pay ~~an annual~~ a fee (the "Annual Fee") to the Authority. Except with respect to equipment financings and financings involving multiple, unaffiliated borrowers, such Annual Fee ~~the annual fee payable by an institution~~ shall not exceed the lesser of (i) ~~equal~~ 0.025 percent of the outstanding principal balance of such institution's financing from the Authority and (ii) the amount of ~~, provided, however, such fee shall not exceed~~ $15,000 per year per issue. Subject to the foregoing limits, the amount of the Annual Fee and the terms of its payment (which may include a lump sum payment) shall be established by resolution of the Authority.

~~b) Upon the effectiveness of this rule, the Authority shall, with respect to all annual fee due and payable after January 1, 1994, credit against the unpaid amount thereof the difference (the "Annual Fee Difference") between the aggregate amount of such fees payable prior to the effectiveness of this rule and the aggregate amount of such fees payable after the effectiveness of this rule, provided that, if the annual fees due and payable after January 1, 1994, by an institution have been paid in full, the Authority shall refund the Annual Fee Difference to such institution.~~

(Source: Renumbered from Section 1400.110 at 20 Ill. Reg. _____, effective _____)

Section 1400.40 Financial Feasibility Costs (Repealed)

~~The costs of the financial feasibility study will vary with the nature of the applicant and its size, and with the complexity of the project being financed. Selection of the firm to perform this study from the Authority's list of approved consulting firms will be made by the Authority after consultation with the applicant. Feasibility consultants must be public accounting or consulting firms with the experience and expertise necessary to prepare financial feasibility studies acceptable to the Authority, rating agencies, underwriters and purchasers of municipal bonds. The selection of the feasibility consultant for a specific project will be made by the Authority in consultation with the applicant. The feasibility study shall be prepared for the Authority and the Authority shall charge the applicant the amount charged to the Authority by the financial feasibility firm. At the time the financial firm agrees to undertake the study, an agreement will be reached with respect to the time for payment of its fee.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 1400.50 Bond Rating Agency Fees (Repealed)

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

~~Normally, all public financings will be submitted to two bond rating agencies Moody's Investors Service, Inc. and Standard & Poor's Corporation for the assignment of a bond quality rating. The applicant's cost of these services varies with the size of the bond issue and the time required for the agencies to make their evaluation. Costs for these services customarily are a minor fraction of 1% of the principal of the bonds. Payment of these costs may usually be deferred until the closing of the bond sale, but are payable even if the financing does not close.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 1400.60 Printing Costs (Repealed)

~~Printing costs include the charges for printing and distribution of a preliminary and final Official Statement and the printing of bonds, which is done by a company specializing in the printing of such documents. The various legal documents (such as mortgage, indenture or loan agreement and the guaranty) may be reproduced by a less formal and less expensive method. The cost of reproduction will vary with the length of the documents, the number of copies required and the type of reproduction used. The number of corrections made in various proofs will also affect the cost. The method of reproduction will be decided jointly by the Authority and the applicant, after consultation with the underwriters. Payment of printing costs may usually be deferred until the closing of the bond sale but payment is due even if the financing does not close.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 1400.70 Bond Counsel (Repealed)

~~a) The fees and out of pocket expenses of bond counsel are payable and due at closing. Fees for this service vary with the size of the bond issue. The fee schedule is available for inspection at the offices of the Authority.~~

~~b) In the event the Authority determines either that bonds will not be sold on a reasonable schedule or that, having been sold, the sale will not be closed on a reasonable schedule, there shall be paid to bond counsel the amount which represents the value of the time expended by bond counsel on the transaction plus out of pocket expenses incurred by bond counsel in connection with the transaction, provided that the total amount of fees payable to bond counsel for such a transaction shall not exceed the fee which would have been payable in connection with the transaction had it closed.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

Section 1400.80 Trustee Fees (Repealed)

~~Bond trustees and paying agents are customarily banks of sufficient size to provide the necessary fiduciary services required under an indenture. Normally, a fee is charged by the trustee at the time of the closing of the bond sale for its various services in connection with receipt of monies to be deposited, in funds created under the indenture and payments from the borrower, and the disbursements of principal and interest to bondholders. The fees of trustees are negotiable within limits, and vary with the individual banks.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 1400.90 Title Insurance (Repealed)

~~Title insurance is a necessary element of security for a bond issue and secured by a mortgage. The cost varies with the amount of insurance and with special services required of the title insurance companies, such as construction escrow payments. The fees of the title company are generally payable at the bond sale closing. If the sale of bonds is not consummated and title insurance policies are not issued, the title charges are usually limited to search fees.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 1400.100 Payment of Fees and Costs (Repealed)

~~The applicant is responsible for all of the foregoing costs whether or not bonds are sold or delivered, except as expressly provided above with respect to the Authority's application fee, fees of bond counsel, trustee's fees and title insurance fees. All fees and costs described above which are due at the closing may be paid from bond proceeds, and to the extent such fees and expenses are due and have been paid by the applicant prior to the closing, they may be reimbursed to the applicant from bond proceeds.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 1400.110 Authority's Annual Fee (Renumbered)

(Source: Renumbered to Section 1400.20 at 20 Ill. Reg. _____, effective _____)

HUMAN RIGHTS COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Procedural Rules

2) Code Citation: 56 Ill. Adm. Code 5300

3) Section Numbers: Proposed action:

5300.40	Amendment
5300.210	Amendment
5300.220	Amendment
5300.400	New Section
5300.515	New Section
5300.520	Amendment
5300.530	Amendment
5300.625	New Section
5300.650	Amendment
5300.660	Amendment
5300.710	Amendment
5300.715	New Section
5300.720	Amendment
5300.725	Amendment
5300.730	Amendment
5300.735	Amendment
5300.750	Amendment
5300.760	Amendment
5300.762	New Section
5300.765	Amendment
5300.910	Amendment
5300.945	New Section
5300.950	Amendment
5300.1110	Amendment
5300.1120	Amendment
5300.1140	Amendment
5300.1145	Amendment
5300.1150	Amendment
5300.1170	New Section

4) Statutory Authority: Implementing P.A.s 89-348 and 89-370 and authorized by Section 8-102(E) of the Human Rights Act [775 ILCS 5/8-102(E)].

5) A complete description of the subjects and issues involved: These rule changes are being proposed to implement P.A.s 89-348 and 89-370, which made extensive changes to the Human Rights Act. The proposed amendments would change the Commission's procedural rules in the following ways:

a) The Commission proposes to add new Sections and to modify other Sections to provide for an alternative hearing procedure where there is no right to appeal the decision of the administrative law judge. A simplified, alternative hearing procedure is specifically authorized

HUMAN RIGHTS COMMISSION

NOTICE OF PROPOSED AMENDMENTS

by P.A. 89-370.

b) The amendments clarify that where a subpoena is served on a non-party, both the subject of the subpoena and the other party have standing to object to the subpoena.

c) The amendments clarify that where the Department of Human Rights has filed a complaint, the Department would have the authority to move to amend that complaint. The rules also provide that if a complaint is amended, it is up to either the complainant or the Department of Human Rights to serve the amended complaint on the other parties.

d) The amendments clarify that although the types of discovery available to the parties are the same as in circuit court (except for discovery depositions), the procedure for obtaining that discovery is governed by Commission rule, not the Code of Civil Procedure.

e) The amendments change the procedural rules to conform with the amendment to the Human Rights Act which provide that an administrative law judge may not preclude the filing of a motion for summary decision except within the 60-day period prior to the date set for the hearing on the merits of the complaint. The rules also clarify the statutory mandate that such motions must be decided "without delay."

f) The amendments change the procedural rules to conform with the change to the Human Rights Act which provides that if no exceptions are filed to a recommended order and decision, the recommended order becomes the final order of the Commission. Further, even where exceptions are filed, the Commission may decline review.

g) The amendments change the procedural rules to implement the provision in P.A. 89-348 which allows for interlocutory appeals of Commission orders.

6) Will this rulemaking replace any emergency rulemaking currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of statewide policy objectives: This rulemaking will not create or expand a State mandate.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments

HUMAN RIGHTS COMMISSION

NOTICE OF PROPOSED AMENDMENTS

concerning these rules in writing within 45 days after this issue of the *Illinois Register* to:

Gail M.Bradshaw
Executive Director
Illinois Human Rights Commission
James R. Thompson Center
100 West Randolph Street, Suite 5-100
Chicago, IL 60601-3219
(312) 814-6269

12) Initial regulatory flexibility analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking will not affect small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda in which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: These proposed amendments are designed to implement amendments to the Human Rights Act which were not signed into law until August of 1995.

The full text of the Proposed Amendments is identical to the text of the emergency amendments which appears in this issue of the Register on page 413.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Safe Operation of Nuclear Facility Boilers and Pressure Vessels

2) Code Citation: 32 Ill. Adm. Code 505

3)

Section Number:	Proposed Action:
505.40	Amendment
505.50	Amendment
505.80	Amendment
505.84	Amendment
505.110	Amendment
505.170	Amendment
505.1700	Amendment
505.2000	Amendment
505.2200	Amendment
505.2700	Amendment

4) Statutory Authority: Implementing and authorized by Section 8(a)(8) of the Illinois Nuclear Safety Preparedness Act [420 ILCS 5/8(a)(8)], Sections 2a and 2b of the Boiler and Pressure Vessel Safety Act [430 ILCS 75/2a and 2b], and by Section 71(C) of the Civil Administrative Code of Illinois [20 ILCS 2005/71(C)].

5) A Complete Description of the Subjects and Issues Involved: The Department is proposing this amendment: (1) in Section 505.40, by updating references to the latest edition of the ASME Boiler and Pressure Vessel Safety Code, National Board and ASME CSD-1a codes; (2) in Section 505.50, by clarifying that all three requirements contained in subsection (a)(3) do not need to be met to meet the exemption requirement, by deleting the exemption in subsection (a)(7) for liquified petroleum gas containers since this requirement was exempted by the Boiler and Pressure Vessel Safety Act, as amended by P.A. 88-608, effective January 1, 1995, and by adding a new exemption in subsection (a)(7) that will allow the Department to exempt certain ISI vessels (e.g., BWR hydraulic control units) and similar monitored vessels; (3) in Section 505.80, by updating citations of material incorporated by reference; (4) by making an editorial correction in Section 505.84(a); (5) by deleting the five and six digit identification number in Section 505.110(e) since the numbers on some older vessels do not conform to this numbering convention; (6) in Sections 505.170, 505.1700 and 505.2700, by changing the requirements of issuing state special permits for construction of boiler and pressure vessels; (7) in Section 505.2000, by deleting the requirements in subsection (c)(3) relating to liquified petroleum gas which was exempted by the Boiler and Pressure Vessel Safety Act, as amended by P.A. 88-608, effective January 1, 1995; and (8) in Section 505.2200, by changing the inspection frequency since most of the owners are migrating to a 24-month operating cycle. The three-year periodicity for vessel inspections

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

becomes incompatible with the owners' scheduled outages. The Act allows the Department to vary the inspection frequency for pressure vessels not subject to internal corrosion, which is most of them. This change will allow owners to take credit for alternative means of assuring vessel integrity and give them flexibility to coordinate inspections in accordance with outage schedules.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes, the amendment contains material incorporated by reference pursuant to Section 100/5-75(a) of the Administrative Procedure Act [5 ILCS 100/5-75(a)].

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments should be submitted to:

Lyle J. Black
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-0770 (voice)
(217) 782-6133 (TDD)

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small businesses, not for profit corporations or units of local government.

13) Regulatory Agenda on which this rulemaking was summarized: This amendment was not included on either of the two most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER c: NUCLEAR FACILITY SAFETY

PART 505
SAFE OPERATION OF NUCLEAR FACILITY BOILERS AND PRESSURE VESSELS

SUBPART A: GENERAL

Section
505.10 Scope
505.20 Policy
505.30 Definitions
505.40 Standards Incorporated by Reference
505.50 Exemptions
505.60 Access to Facilities and Documents
505.70 Notification of Failures
505.80 Administrative Review and Hearings - Inspection Certificates
505.82 Administrative Review and Hearings - Authorized Inspection Agency
505.84 Administrative Review and Hearings - Special Permits
505.86 Actions Pending Before the United States Nuclear Regulatory Commission
505.90 Address and Telephone Number for Notifications and Inquiries
505.100 Standards for Design, Construction, Operation and Inspection (general)
505.110 Registration Requirements (general)
505.120 Inspection Certificates (general)
505.130 Operation Requirements (general)
505.140 Inspection Requirements (general)
505.150 Repairs and Alterations (general)
505.160 Code Case Applications (general)
505.170 Use of Alternative Standards for Construction, Inspection and Repair ~~Issuance of Permits and Registration of Non-ASME Code Boilers and Pressure Vessels (State Specials)~~ (general)
505.180 Authorized Inspectors (general)
505.190 Authorized Inspection Agencies (general)

SUBPART B: ISI BOILERS AND PRESSURE VESSELS

Section
505.1000 Standards for Design, Construction, Operation and Inspection
505.1100 Registration Requirements
505.1200 Inspection Certificates
505.1300 Operation Requirements
505.1400 Inspection Requirements
505.1500 Repairs
505.1600 Code Case Applications
505.1700 Use of Alternative Standards for Construction, Inspection and Repair

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

~~Issuance of Permits and Registration of Non-ASME Code Boilers and Pressure Vessels (State Specials)~~
505.1800 Authorized Inspectors
505.1900 Authorized Inspection Agencies

SUBPART C: NON-ISI BOILERS AND PRESSURE VESSELS

Section
505.2000 Standards for Design, Construction, Operation and Inspection
505.2100 Registration Requirements
505.2200 Inspection Certificates
505.2300 Operation Requirements
505.2400 Inspection Requirements
505.2500 Repairs and Alterations
505.2600 Code Case Applications
505.2700 Use of Alternative Standards for Construction, Inspection and Repair ~~Issuance of Permits and Registration of Non-ASME Code Boilers and Pressure Vessels (State Specials)~~
505.2800 Authorized Inspectors
505.2900 Authorized Inspection Agencies

AUTHORITY: Implementing and authorized by Section 8(a)(8) of the Illinois Nuclear Safety Preparedness Act [420 ILCS 5/8(a)(8)], Sections 2a and 2b of the Boiler and Pressure Vessel Safety Act [430 ILCS 75/2a and 2b], and by Section 71(C) of the Civil Administrative Code of Illinois [20 ILCS 2005/71(C)].

SOURCE: Emergency Rule adopted at 17 Ill. Reg. 15667, effective September 10, 1993, for a maximum of 150 days; adopted at 18 Ill. Reg. 2317, effective February 7, 1994; amended at 20 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 505.40 Standards Incorporated by Reference

The Department hereby adopts and incorporates by reference the following codes and standards.

a) In accordance with the authority granted under Section 2a of the Act, the Department adopts the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers with addenda thereto made. Those Sections of the ASME Code listed below are incorporated into and constitute a part of the whole rules and regulations of the Department.

1) ASME Boiler and Pressure Vessel Code, 1952 Edition including all addenda editions through the ASME Boiler and Pressure Vessel Code, 1995 ~~1992~~ Edition, for the following:

AGENCY NOTE: The edition and addenda of the ASME Boiler and Pressure Vessel Code applicable to a particular component can be

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

traced using the date of construction of the component in light of Sections 505.170, 505.1000 and 505.2000 of this Part. For more information see Sections 505.170, 505.1000 and 505.2000 of this Part.

A) Section I, Rules for Construction of Power Boilers;
B) Section II, Material Specifications
Part A - Ferrous
Part B - Nonferrous
Part C - Welding Rods, Electrodes and Filler Metals
Part D - Properties;
C) Section III, Rules for Construction of Nuclear Power Plant Components, Division 2 - Concrete Reactor Vessels and Containments;
D) Section IV, Rules for Construction of Heating Boilers;
E) Section V, Nondestructive Examination;
F) Section VI, Recommended Rules for Care and Operation of Heating Boilers;
G) Section VII, Recommended Guidelines for Care of Power Boilers;
H) Section VIII, Rules for Construction of Pressure Vessels
Division 1 - Including Appendix M
Division 2 - Alternative Rules;
I) Section IX, Welding and Brazing Qualifications; and
J) Section X, Fiberglass-Reinforced Plastic Pressure Vessels.

2) ASME Boiler and Pressure Vessel Code, editions and addenda referenced in Title 10 of the Code of Federal Regulations (CFR) Part 50, Section 50.55a (10 CFR 50.55a), revised as of January 1, 1994 ~~1993~~, including all limitations and modifications contained therein, for the following:

A) Section III, Rules for Construction of Nuclear Power Plant Components, Division 1 - Nuclear Power Plant Components; and
B) Section XI, Rules for Inservice Inspection of Nuclear Power Plant Components, Division 1 - Rules for Inspection and Testing of Light-Water Cooled Plants.

AGENCY NOTE: The Department will review programs at specific plants on the basis of the edition and addenda of Sections III and XI approved by the NRC for the specific plant.

b) The Department adopts The National Board Inspection Code, 1992 edition with the 1992, 1993 and 1994 addenda, published by the National Board, except that in all cases "should" shall be read as "shall", "jurisdiction" shall be read as "Department" and reference to Chapter III within Chapter II shall be read as reference to Section ~~Sections~~ 505.150, 505.1500 or 505.2500 of this Part.

c) The Department adopts the following nationally recognized standards and their addenda:

1) ASME CSD-1a, 1993 ~~1988~~, Controls and Safety Devices for Automatically Fired Boilers~~, Part CF only, for boilers installed or reinstalled after January 1, 1991 and Section CW-520~~;

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

2) NFPA 8501-92, Single Burner Boilers - Furnaces;
3) NFPA 85-C, 1991, Multiple Burner Boilers - Furnaces; and
4) NFPA 85-F, 1988, Pulverized Fuel Systems.

d) The Department adopts ANSI/ASME N626, Qualification and Duties of Authorized Nuclear Inspection Agencies and Personnel, 1974 Edition including all addenda and editions through the N626a-1991 addendum.
AGENCY NOTE: The edition and addenda of ANSI/ASME N626 applicable to the qualifications of the authorized nuclear inspection agency and its personnel can be traced using the edition and addenda of the ASME Boiler and Pressure Vessel Code applicable to a particular component.

e) For documents included in subsections (a) through (d) of this Section ~~above~~, the Department is incorporating only those editions and addenda indicated. The Department is not incorporating any subsequent edition or addendum to these documents. All documents are available for public review at the Department offices, 1035 Outer Park Drive, Springfield, Illinois.
AGENCY NOTE: This Section is applicable to the following nuclear power plants: Braidwood Station, Units 1 & 2; Byron Station, Units 1 & 2; Clinton Station, Unit 1; Dresden Station, Units 1, 2 & 3; LaSalle County Station, Units 1 & 2; Quad Cities Station, Units 1 & 2; and Zion Station, Units 1 & 2.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 505.50 Exemptions

The following exemptions to requirements in this Part shall be permitted except as defined below or as otherwise provided in this Part. The exemptions provided ~~below~~ in subsections (a)(1), (2), (3) and (4) of this Section shall not be permitted for ISI boilers and pressure vessels.

a) Except as provided in Section 505.70 of this Part, the following boilers and pressure vessels shall be exempt from the requirements of this Part:

1) Those classes of pressure vessels not within the scope of ASME Code Section VIII, Division I as defined in the introduction under paragraph U-1.
2) Boilers and pressure vessels which have either a Limiting Condition for Operation (LCO) or a surveillance requirement in the plant's technical specifications.
3) Pressure vessels that do not exceed:
A) A volume of 15 cubic feet and 250 psiq when not located in a place of public assembly; ~~or~~
B) A volume of 5 cubic feet and 250 psiq when located in a place of public assembly; or ~~or~~
C) A volume of 1-1/2 cubic feet and 600 psiq.
4) Water conditioning equipment used for removing minerals, chemicals, or organic or inorganic particulate from water by

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

means other than application of heat, e.g., water softeners, water filters, dealkalizers and demineralizers, provided that:

A) The temperature of such vessels is maintained below 212 degrees fahrenheit;

B) No heat is applied to the water after being placed into such vessels; and

C) No heat is applied either directly or indirectly to such vessels.

5) Hot water supply boilers which are directly fired with oil, gas or electricity, when none of the following limitations are exceeded:

A) Heat input of 200,000 BTU/hr.; or

B) Water temperature of 200° F; or

C) Nominal water containing capacity of 120 gallons.

6) Coil type hot water boilers where the water can flash into steam when released directly to the atmosphere through a manually operated nozzle, provided the following conditions are met:

A) There is no drum, headers or other steam spaces;

B) No steam is generated within the coil;

C) Outside diameter of tubing does not exceed 1 inch;

D) Pipe size does not exceed 3/4 inch;

E) Water capacity of the unit does not exceed 6 U. S. gallons; and

F) Water temperature does not exceed 350° F.

7) ISI pressure vessels which have a surveillance requirement in the plant technical specifications or are continuously monitored or are routinely subjected to examinations and tests (e.g., visual examinations and pressure tests), provided that the alternative examinations and tests give an assurance of structural integrity and will not result in undue hazard to the public health and safety or property. ~~Containers for liquefied petroleum gas that do not exceed a volume of 2,000 U. S. gallons except when used for dispensing to other LPG containers or fuel tanks; and~~

8) Other boilers and pressure vessels listed under Section 5(a) of the Act.

b) Boilers and pressure vessels listed under Section 5(b) of the Act shall be subject to the requirements of this Part (e.g., design, construction and registration) except for those requirements pertaining to inspection, Inspection Certificates and penalties for operating without a valid Inspection Certificate.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 505.80 Administrative Review and Hearings - Inspection Certificates

This Section shall apply to all actions by the Department for noncompliance with this Part that potentially could impact upon the issuance, suspension or

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

revocation of an Inspection Certificate required by this Part.

a) When in any instance departmental review reveals that an owner may not be in compliance with one or more requirements of this Part, the Department will notify the owner in writing of those facts and circumstances known to the Department that give rise to the inference that the owner is not in compliance. If the facts and circumstances giving rise to the inference involve only boilers and pressure vessels that the NRC has determined are not within NRC's jurisdictional authority, subsection (c) of this Section ~~below~~ shall apply and subsection (b) of this Section ~~below~~ shall not apply. If the facts and circumstances giving rise to the inference involve any other boiler, pressure vessel or nuclear power system, subsection (b) of this Section ~~below~~ shall apply and subsection (c) of this Section ~~below~~ shall not apply.

b) Simultaneously with the notification provided for in subsection (a) of this Section ~~above~~, the Department will notify the NRC in writing of those facts and circumstances known to the Department that give rise to the inference that the owner is not in compliance. If the owner fails to demonstrate to the Department that the owner is in compliance within 10 days after the notification, the Department shall provide to the NRC a written request pursuant to 10 CFR 2.200 et seq. (1994) ~~(1991)~~, that the NRC take appropriate action, e.g., pursuant to 10 CFR, Part 2, Appendix C (1994) ~~(1991)~~. The request will specify the NRC action or actions that the Department is requesting.

c) If the owner fails to demonstrate to the Department that the owner is in compliance within 10 days after the notification provided for in subsection (a) of this Section ~~above~~, the Department shall issue a Preliminary Order and Notice of Opportunity for Hearing in accordance with 32 Ill. Adm. Code 200. The owner aggrieved by such order may within 15 days submit a written request for a hearing to the Department, which shall thereafter hold an adjudicatory hearing in accordance with Section 16 of the Boiler and Pressure Vessel Safety Act, the Illinois Administrative Procedure Act and 32 Ill. Adm. Code 200.

1) If, after the hearing, the Director finds that the owner or organization was in compliance with the requirements of this Part, the Director shall issue to the owner an Order of Compliance or issue such other order as appropriate.

2) If after the hearing or default, the Director finds that the owner is not in compliance with the requirements of this Part, the Director will render a final decision which may include denying an application for, or suspending or revoking, an affected Inspection Certificate.

d) All final administrative decisions of the Director under this Part shall be subject to judicial review pursuant to Section 16 of the Boiler and Pressure Vessel Safety Act.

(Source: Amended at 20 Ill. Reg. _____, effective

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

_____)

Section 505.84 Administrative Review and Hearings - Special Permits

This Section shall apply to any action by the Department to deny an application for, or to suspend or revoke, a special permit for construction of a non-ASME Code boiler or pressure vessel pursuant to Section 505.2700 of this Part.

a) An owner aggrieved by a Departmental denial pursuant to Section 505.2700(c)(5), (d)(5) and (e)(5) of this Part ~~(6)~~ or departmental action pursuant to Section 505.2700(c)(4), (d)(5) and (e)(5) of this Part ~~(5)~~ may within 15 days submit a written request for a hearing to the Department, which shall thereafter hold an adjudicatory hearing in accordance with Section 16 of the Boiler and Pressure Vessel Safety Act, the Illinois Administrative Procedure Act and 32 Ill. Adm. Code 200.

1) If, after the hearing, the Director finds that the owner was in compliance with the requirements of this Part or that the affected non-ASME boiler or pressure vessel meets the criteria of Section 505.2700(c) of this Part, the Director shall issue an order directing that the Special Permit be issued to the owner or organization.

2) If, after the hearing or default, the Director finds that the owner is not in compliance with the requirements of this Part, the Director will render a final decision which may include denying the application for, or suspending or revoking, a Special Permit.

b) All final administrative decisions of the Director under this Part shall be subject to judicial review pursuant to Section 16 of the Boiler and Pressure Vessel Safety Act.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 505.110 Registration Requirements (general)

a) The requirements of this Section are subject to the limitations of Section 505.20(c) of this Part.

b) The owner of a nuclear facility shall register with the Department all boilers and pressure vessels contained within or upon or in connection with the nuclear facility unless exempt under Section 505.50(a) of this Part, as follows:

1) For each boiler and pressure vessel already in operation and registered with the Office of the State Fire Marshal on February 7, 1994, the owner shall submit on or before August 6, 1994 evidence supporting existing registration through the Office of the State Fire Marshal and the additional information required by Section ~~Sections~~ 505.1100 or 505.2100 of this Part, as applicable. Such evidence shall include the State serial number

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

assigned to the boiler or pressure vessel, a description of the boiler or pressure vessel and the nuclear power system to which the boiler or pressure vessel belongs.

2) For each boiler and pressure vessel already in operation and not registered with the Office of the State Fire Marshal on February 7, 1994, the owner shall submit on or before May 8, 1994 the information required by Section ~~Sections~~ 505.1100 or 505.2100 of this Part, as applicable.

3) For each boiler and pressure vessel installed after February 7, 1994, the owner shall register the boiler or pressure vessel prior to its operation in accordance with Section ~~Sections~~ 505.1100 or 505.2100 of this Part, as applicable.

c) After February 7, 1994, manufacturer's Data Reports shall be filed by the owner with the Department for new installation and reinstallation of boilers and pressure vessels at nuclear facilities unless otherwise exempted by Section 505.50(a) of this Part. If a boiler or pressure vessel is of special design or will not bear the ASME stamp, then the owner shall additionally comply with the requirements of Sections 505.170 and 505.1700 or Section 505.2700 of this Part for non-ASME Code ISI or non-ISI boilers and pressure vessels, respectively.
AGENCY NOTE: Data Reports as used in this subsection (c) refers to those documents completed as required by the construction code applicable to the boiler or pressure vessel.

d) Each boiler or pressure vessel subject to the Act shall be identified by a serial number of the State of Illinois. If a State serial number has not already been assigned by the OSFM, a number will be assigned by the Department and applied by the Authorized Inspector. Additionally, the ASME Code required stamping shall be kept free of paint and lagging so that it will be plainly visible and easily read by the Inspector.

e) The State serial number on boilers shall not be less than 5/16" in height and shall be preceded by the letters "ILL" which shall also be not less than 5/16" in height. ~~Boilers will be identified by a five digit number.~~ The State serial number on unfired pressure vessels shall be not less than 5/16" in height and shall be preceded by the letters "ILL" and the letter "U" which also shall be not less than 5/16" in height. ~~Unfired pressure vessels will be identified by a six digit number.~~ The Inspector shall make certain that the correct Illinois State serial number is affixed to the boiler or pressure vessel.

f) The requirements of subsections (d) and (e) of this Section ~~above~~ for the physical application of the State serial number may be waived if a system to identify the boiler or pressure vessel with the assigned State serial number has been established and the system of identification is acceptable to the Department. An alternative system for the identification of boilers and pressure vessels with assigned State serial numbers shall be acceptable to the Department if the alternative system readily and unambiguously allows the Department and

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

Authorized Inspector to track the inspection status of the boilers and pressure vessels using the State serial numbers. Acceptable alternative systems of identification may include, but are not limited to, the use of cross-reference lists between assigned State serial numbers and any of the following: National Board serial numbers; manufacturers' names and serial numbers; or plant equipment identification numbers as shown on controlled plant system identification drawings provided to the Department.

g) A Certificate Inspection shall be made of all used or second-hand boilers or pressure vessels prior to operation at a nuclear facility in this State. In a case where a boiler or pressure vessel is moved and reinstalled the fittings and appliances shall be upgraded to comply with the rules for new installations.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 505.170 Use of Alternative Standards for Construction, Inspection and Repair ~~Issuance of Permits and Registration of Non-ASME Code Boilers and Pressure Vessels (State Specials)~~ (general)

a) The Department may issue special permits for boilers and pressure vessels at nuclear facilities which for some reason were not constructed in accordance with the applicable ASME Code Section, or for some reason cannot be inspected or repaired in accordance with this Part. The Department shall issue special permits in accordance with Section 505.1700 or Section 505.2700 of this Part, as applicable.

b) Owners may request the Department to issue a special permit for a boiler or pressure vessel ~~an object~~ not constructed in accordance with the applicable ASME Code Section.

c) For boilers and pressure vessels using alternative standards for construction, upon ~~Upon~~ completion of construction and installation, the owner shall register the non-ASME Code boiler or pressure vessel with the Department. The owner shall demonstrate compliance with the provisions of the special permit. The owner shall meet the applicable registration requirements for either ISI boilers and pressure vessels in Sections 505.1100 and 505.1200 of this Part or non-ISI boilers and pressure vessels in Sections 505.2100 and 505.2200 of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART B: ISI BOILERS AND PRESSURE VESSELS

Section 505.1700 Use of Alternative Standards for Construction, Inspection and Repair ~~Issuance of Permits and Registration of Non-ASME Code Boilers and Pressure Vessels (State Specials)~~

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

a) Approval to permit an owner to use alternative standards for construction, inspection or repair of an ISI boiler or pressure vessel is vested in the NRC. The Department shall accept alternative construction standards that have been accepted by the NRC.

b) Owners shall meet the requirements of Section 505.170 of this Part in all cases involving use of alternative standards for ~~the construction of~~ ISI boilers or pressure vessels.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART C: NON-ISI BOILERS AND PRESSURE VESSELS

Section 505.2000 Standards for Design, Construction, Operation and Inspection

Non-ISI boilers and pressure vessels, including related appurtenances, except those exempt under Section 505.50(a) of this Part, operated within or upon or in connection with a nuclear facility in Illinois, shall be designed, constructed, installed, examined, tested, repaired, altered and inspected as required by this Section, except in those cases where NRC has jurisdiction, as determined by NRC. Where NRC has jurisdiction, the codes and standards reflected in the facility's Operating License, Final Safety Analysis Report, technical specifications or other licensing documents as required or approved by the NRC shall apply. For non-ISI boilers and pressure vessels over which NRC has no jurisdiction, as determined by NRC, the standards required by this Part apply. If the NRC determines that NRC has jurisdiction, but has not established standards, the Department may propose to NRC that these or other standards be applied to such boilers and pressure vessels in nuclear power plants in Illinois.

a) All new, existing and reinstalled non-ISI boilers, including related appurtenances, shall be designed, constructed, installed, examined, tested, repaired and altered in accordance with the ASME Code or National Board Inspection Code, as applicable, and inspected in accordance with this Part. Where a non-ISI boiler is moved and reinstalled, the fittings and appliances of that boiler shall comply with this Part.

b) All non-ISI pressure vessels installed and placed in operation after December 31, 1976 and all reinstalled non-ISI pressure vessels, including related appurtenances, shall be designed, constructed, installed, tested, examined, repaired and altered in accordance with the ASME Code or National Board Inspection Code, as applicable, and inspected in accordance with this Part. Where a non-ISI pressure vessel is moved and reinstalled, the fittings and appliances of that pressure vessel shall comply with this Part.

c) Non-ISI pressure vessels and related appurtenances installed and placed in operation at nuclear facilities on or before December 31, 1976 shall be inspected in accordance with this Part and designed, constructed, installed, tested, repaired and altered, in accordance

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

with the following requirements.

1) The MAWP for standard pressure vessels shall be determined in accordance with the applicable provisions of the ASME Code under which they were constructed and stamped.

2) MAWP for Non-standard Pressure Vessels

A) The MAWP of a non-standard pressure vessel subject to internal pressure shall be determined by the strength of the weakest course computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, the inside diameter of the course and the factor of safety set by this Part, as permitted below.

(TS*t*E)/(R*FS) = MAWP, in psig, where:

TS = ultimate tensile strength of shell plate, in psi.

When the tensile strength of steel plate is not known, it shall be taken as 55,000 psi for temperature not exceeding 650° F.

t = minimum thickness of shell plate of weakest course, in inches.

E = efficiency of longitudinal joint, depending upon construction. Use the following values (in percents):

For Fusion-Welded and Brazed Joints:

Single lap welded.....40
Double lap welded.....60
Single butt welded.....60
Double butt welded.....75
Forge welded.....70
Brazed steel.....80

For riveted joints -- calculate riveted joint efficiency in accordance with rules given in Section I, Part PR, of the 1971 ASME Code.

R = inside radius for weakest shell course, in inches, provided the thickness does not exceed 10 percent of the radius. If the thickness is over 10 percent of the radius, the outer radius shall be used.

FS = factor of safety permitted shall be a minimum of 5.0.

B) The MAWP for cylindrical non-standard pressure vessels subject to external or collapsing pressure shall be determined by the rules in Par. UG-27 and UG-28 of the ASME Code Section VIII.

C) The minimum factor of safety may be increased when deemed necessary by the Inspector to assure the operation of the vessel within safe limits. The condition of the vessel and the particular service to which it is subject will be determining factors.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

D) The MAWP permitted for formed heads under pressure shall be determined by using the appropriate formulas from UG-32 or UG-33 of the ASME Code Section VIII and the tensile strength and efficiencies given above.

~~3) Containers for liquified petroleum gas not otherwise exempt shall be equipped with ASME Code stamped spring loaded safety relief valves and the start to discharge setting of such safety relief valves with relation to the design pressure of the container shall be in accordance with the following table:~~

~~Safety Relief Valve Settings~~

~~Construction Code~~	~~Minimum~~	~~Maximum~~
~~All Section VIII ASME Codes prior to and including the 1949 Edition, paragraphs U 60 and U 69~~	~~110 percent~~	~~125 percent~~
~~ASME Code Section VIII including the 1949 Edition and later editions, paragraphs U 200 and U 201~~	~~100 percent~~	~~100 percent~~

d) All non-ISI boilers and pressure vessels shall be inspected in accordance with Chapter II of the National Board Inspection Code and this subsection (d). The following general requirements shall apply to all non-ISI boilers and pressure vessels.

1) The owner shall prepare each boiler and pressure vessel for internal inspection in accordance with Chapter II of the National Board Inspection Code. The Authorized Inspector should not enter any boiler or pressure vessel before he is satisfied that all necessary safety precautions from Chapter II of the National Board Inspection Code have been taken, including testing the boiler or pressure vessel atmosphere for oxygen and toxic, flammable and inert gases.

2) The owner shall prepare for and apply the hydrostatic test, whenever necessary, on a date agreeable to the owner and the Authorized Inspector.

e) All cases not specifically covered by this Part shall be treated as new installations. Existing non-ISI boilers and pressure vessels shall be governed by current ASME Code and National Board Inspection Code requirements or the requirements of the ASME Code in effect at the time of construction.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 505.2200 Inspection Certificates

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

This Section is not intended to be, in any way, inconsistent with the applicable regulations, rules and requirements of the NRC. If a requirement of this Section as applied in any situation is or would be inconsistent with the regulations, rules and requirements of the NRC, the requirements of this Section shall not be applied. The Department will take action in regard to an Inspection Certificate only in accordance with Section 505.80 of this Part. The Department shall issue Inspection Certificates for non-ISI boilers and pressure vessels in accordance with this Section if the reports, inspection criteria and plans required to be submitted by and identified in Sections 505.110 and 505.2100 of this Part and this Section are submitted in accordance with the frequencies specified therein and are in compliance with this Part.

a) The Department shall issue one Inspection Certificate to each non- ISI boiler and pressure vessel for a term equal to the frequency of inspection of the non-ISI boiler or pressure vessel as follows:

1) Power boilers, high pressure water boilers and high temperature water boilers shall be inspected annually, which shall be an internal inspection where conditions permit. Such boilers shall also be inspected externally annually while under representative operating conditions, if possible.

2) Low pressure steam boilers, hot water heating boilers and hot water supply boilers shall be inspected every two years. Such inspection shall be internal and external, where conditions permit. An external inspection shall be conducted under representative operating conditions at the request of the Authorized Inspector.

3) Pressure vessels subject to internal corrosion shall be inspected every three years. Such inspection shall be external and internal, where conditions permit.

4) Pressure vessels not subject to internal corrosion shall be inspected as follows: ~~externally every three years.~~

A) Vessels containing incompressible fluids (e.g., water) shall be inspected externally every five years.

B) Vessels containing compressible fluids (e.g., air steam), or a combination of compressible and incompressible fluids, shall be inspected externally every three years.

C) Alternatively, the owner may submit an inspection plan for the vessel for its remaining life based upon refueling outages. The basis for such an inspection plan may include alternative examinations and tests performed, past performance of the pressure vessel and similar pressure vessels, status of the pressure vessel in the plant's maintenance program, the environment and contents of the pressure vessel and relevant engineering data.

AGENCY NOTE: External inspection may be waived by the Department due to inaccessability of the equipment, based on the owner's detailed assessment of documentation and performance data verifying vessel integrity.

5) Inspection of flame safeguard equipment shall be to the standards

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

of Section 505.40(c) of this Part and will be in conjunction with the regular inspection of boilers.

6) A grace period of 2 months beyond the period specified in subsection ~~subsections~~ (a)(1) or (2) of this Section ~~above~~, may elapse between internal inspections of the boiler while it is not under pressure and the external inspection of the boiler while it is under pressure.

~~b) The date of issuance of the Inspection Certificate shall be the same as the inspection date shown on the completed Report of Inspection.~~

b)~~c)~~ The Department shall issue an initial Inspection Certificate for a non-ISI boiler or pressure vessel as follows:

1) For non-ISI boilers and pressure vessels having a valid Inspection Certificate issued by the Office of the State Fire Marshal as of February 7, 1994, the Department shall automatically recognize such an Inspection Certificate until expiration or until the Department issues an Inspection Certificate in accordance with this Part, whichever is earlier. Application for an Inspection Certificate shall be in accordance with subsection (f) of this Section ~~(g) below~~.

2) Owners of a non-ISI boiler or pressure vessel not yet in operation on February 7, 1994, shall, prior to operation of such a boiler or pressure vessel, have a valid Inspection Certificate issued by the Department in accordance with this Part. Application for an Inspection Certificate shall be in accordance with subsection (f) of this Section ~~(g) below~~ except that the owner shall submit the documents listed in (f)(2) of this Section ~~(g)(2) below~~ at least 90 days prior to operating such a boiler or pressure vessel.

3) Owners of a non-ISI boiler or pressure vessel in operation on February 7, 1994 but not having a valid Inspection Certificate issued by the Office of the State Fire Marshal may not operate such a boiler or pressure vessel after August 6, 1994 without a valid Inspection Certificate issued by the Department in accordance with this Part. Requests for an Inspection Certificate shall be in accordance with subsection (f) of this Section ~~(g) below~~ except that:

A) The owner shall submit the documents listed in subsection (f)(2)(A) of this Section ~~(g)(2)(A) below~~ no later than 30 days prior to the end of the 180 day period.

B) The document submittals in subsection (f)(2)(B) of this Section ~~(g)(2)(B) below~~ shall be those documents, if any, completed within the 3 year period prior to February 7, 1994. The owner shall submit such documents on or before May 8, 1994.

c)~~d)~~ For other than initial issuance of an Inspection Certificate in accordance with subsection (b) of this Section ~~(c) above~~, the Department shall issue an Inspection Certificate for each non-ISI boiler or pressure vessel at the nuclear facility in accordance with

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

this Section when the Department determines that:

1) The inspections applied to the non-ISI boiler or pressure vessel were completed;

2) The Report of Inspection or similar report form was completed for the non-ISI boiler or pressure vessel and was submitted to the Department in accordance with subsection (f)(2) of this Section ~~(g)(2)-below~~; and

3) All submittals in subsections (e) and (f) of this Section ~~(f)-and (g)-below~~ are met.

d)~~e)~~ The Department shall issue the Inspection Certificate within 90 days following receipt of the Report of Inspection on the non-ISI boiler or pressure vessel, or shall observe the procedures of subsection (g) of this Section ~~(h)-below~~. The latter shall occur either within 90 days following receipt of the Report of Inspection or within 10 days following the expiration date of the Inspection Certificate.

e)~~f)~~ The Inspection Certificate issued for the non-ISI boiler or pressure vessel as established by this Section may be extended for a maximum of one year.

1) For boilers, other than power boilers, high pressure water boilers, high temperature water boilers and for pressure vessels, the owner shall request permission from the Department to extend the term of the Inspection Certificate prior to implementing the extension. The Department shall review a request for extension and permit such extension where the extension does not increase the risk to the health and ~~public~~ safety of the public and personnel.

2) For power boilers, high pressure water boilers and high temperature water boilers, the Department may extend, for a time not exceeding one year, the time within which the power boiler is required to be internally inspected, subject to the following conditions and qualifications:

A) The analysis and treatment of feedwater for such power boilers shall be under the supervision of a person qualified in the field of water chemistry.

B) The analysis and treatment of the boiler feedwater shall be for the purpose of controlling and limiting serious deteriorating, crusting and sludge that affect the safety of the boiler.

C) The owner of such boilers shall maintain, for examination by the Inspector, accurate records of such chemical and physical laboratory analysis of samples of the boiler water taken at regular intervals of not more than 24 hours operation and of the treatment applied. These records shall specify dates and times of analyses, by whom analyzed, and the treatment applied at that time and shall be certified by the responsible authority. These records will adequately show the conditions of such water and any constituents or characteristics which are capable of producing corrosion or other deterioration of the boiler or its parts.

D) Application for extension shall be in writing setting forth facts establishing compliance with the foregoing conditions and qualifications and shall be accompanied by the report of external inspection.

f)~~g)~~ Notwithstanding any other provision of this Section, an Inspection Certificate shall remain valid beyond the expiration date noted on the certificate until the boiler or pressure vessel is reinspected by the Authorized Inspector or until the certificate is suspended by the Department, provided that the owner of the boiler or pressure vessel makes it available for inspection at reasonable times. For each non-ISI boiler or pressure vessel, the owner shall submit the following:

1) The information required by Section 505.2100 of this Part;

2) On or before the expiration date of the Inspection Certificate issued to the non-ISI boiler or pressure vessel:

A) The completed Report of Inspection or similar report form documenting that the inspections were performed in accordance with the inspection criteria and frequency requirements of subsection (a) of this Section above and Section 505.2100 of this Part.

B) All Code Data Reports and all other information related to the repair, replacement or alteration of the non-ISI boiler or pressure vessel or its appurtenances performed since the last Certificate Inspection.

g)~~h)~~ If the Department finds that:

1) The submittals and notifications required by subsections (e) and (f) of this Section ~~(f)-and-(g)-above~~ have not been made or are incomplete; or

2) The inspections required by this Section have not been performed or are incomplete; or

3) A change to the inspection frequency applied to the non-ISI boiler or pressure vessel is not in accordance with subsection (e) of this Section ~~(f)-above~~; or

4) The non-ISI boiler or pressure vessel was insured and the insurance has been canceled or has otherwise become ineffective;

the Department shall take action under Section 505.80 of this Part.

h)~~i)~~ In addition to the above requirements, owners shall meet the requirements of Section 505.120 of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 505.2700 Use of Alternative Standards for Construction, Inspection and Repair ~~Issuance-of-Permits--and--Registration--of--Non-ASME--Code--Boilers--and Pressure-Vessels-(State-Specials)~~

a) For all non-ISI boilers and pressure vessels, the Department shall

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

determine the acceptability of the alternative standards in accordance with this Section.

b) The Department shall automatically accept alternative ~~construction~~ standards that have been accepted by the NRC and referenced in the nuclear facility's Updated or Final Safety Analysis Report, technical specifications or other licensing documents.

c) For boilers and pressure vessels ~~When an owner contends that a boiler or pressure vessel~~, other than those covered by subsection (b) of this Section ~~above, to be~~ installed subsequent to February 7, 1994, to be ~~was not~~ constructed to alternative standards than the ~~in accordance with~~ ASME Code standards, the owner may request the Department to issue a permit for the installation of a boiler or pressure vessel not constructed in accordance with the applicable ASME Code.

1) The owner shall submit the documentation described in this Section to the Department and obtain a special installation permit.

2) The owner shall specify the reasons why the boiler or pressure vessel cannot be ~~was not~~ constructed in accordance with ASME Code standards. The owner shall also supply the following information to the Department for review and consideration of requests for a special installation permit:

A) Full details of design and construction showing equivalency to and departures from the ASME Code, including blueprints and material showing details of the construction;

B) Data relating to the physical and chemical properties of all materials used in construction;

C) Calculations showing how the MAWP was derived;

D) An authentic test record for all non-ASME Code materials used in construction; and

E) Other data as the owner deems relevant or as the Department may request in order to establish that the boiler or pressure vessel will be capable of operating as safely as one built to ASME Code standards.

3) The Department may issue special installation permits to a class of boilers or pressure vessels meeting the above criteria when it deems that the public interest would be best served by application of the class of boilers or pressure vessels rather than individual case-by-case determination.

4) The Department may, as a condition to issuance of a special installation permit, require the installation of safety features or prescribed operating procedures for boilers or pressure vessels. The Department will use relevaht safety data in determining the need for installation of safety features or operating features.

5) If the Department acts to deny a request for special permit, it shall take action under Section 505.84 of this Part.

d) For boilers and pressure vessels, other than those covered by subsection (b) of this Section, to be inspected to standards other

than those specified in this Part, the owner shall request the use of alternative standards.

1) The owner shall submit the documentation described in this Section to the Department and obtain permission to use the alternative standards.

2) The owner shall specify the reasons why the boiler or pressure vessel cannot be inspected in accordance with this Part.

3) The Department may approve the use of alternative standards for inspection for a class of boilers or pressure vessels when it deems that the public interest would be best served by application of the class of boilers or pressure vessels rather than individual case-by-case determination.

4) The Department may, as a condition of approval of the use of alternative standards for inspection, require the installation of safety features or prescribed operating procedures for boilers or pressure vessels. The Department will use relevant safety data in determining the need for installation of safety features or operating features.

5) If the Department acts to deny a request for the use of alternative standards for inspection, it shall take action under Section 505.84 of this Part.

e) For boilers and pressure vessels, other than those covered by subsection (b) of this Section, to be repaired to standards other than those specified in this Part, the owner shall request the use of alternative standards.

1) The owner shall submit the documentation described in this Section to the Department and obtain permission to use the alternative standards.

2) The owner shall specify the reasons why the boiler or pressure vessel cannot be repaired in accordance with this Part.

3) The Department may approve the use of alternative standards for repair for a class of boilers or pressure vessels when it deems that the public interest would be best served by application of the class of boilers or pressure vessels rather than individual case-by-case determination.

4) The Department may, as a condition of approval of the use of alternative standards for repair, require the installation of safety features or prescribed operating procedures for boilers or pressure vessels. The Department will use relevant safety data in determining the need for installation of safety features or operating features.

5) If the Department acts to deny a request for the use of alternative standards for repair, it shall take action under Section 505.84 of this Part.

f)~~d)~~ Owners shall meet the requirements of Section 505.170 of this Part in all cases involving use of alternative standards for ~~the construction of~~ non-ISI boilers or pressure vessels.

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 20 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Organic Material Emission Standards and Limitations for the Chicago Area

2) Code Citation: 35 Ill. Adm. Code 218

3)

Section Numbers:	Proposed Action:
218.110	Amended
218.111	Amended
218.208	Amended
218.431	Amended
218.434	Amended
218.435	Amended
218.720	Repealed
218.722	Repealed
218.726	Repealed
218.727	Repealed
218.728	Repealed
218.729	Repealed
218.730	Repealed
218.980	Amended
Appendix G	Amended

4) Statutory Authority: [415 ILCS 5/27 and 28.5]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking proposes amendments to six Subparts of 35 Ill. Adm. Code 218 pursuant to the Rate of Progress Plan submitted to USEPA on November 15, 1993, the Reasonably Available Control Technology rules for major sources and the Omnibus Cleanup of the volatile organic material rules, all required by the Clean Air Act, as amended in 1990. The amendments to Subpart A, General Provisions, correct the vapor pressure equations; the amendments to Subpart F, Coating Operations, clarify the recordkeeping and reporting requirements; the amendments to Subpart Q, Synthetic Organic Chemical and Polymer Manufacturing Plant, correct a publication date for a *Federal Register* referenced therein and correct minor typographical errors; the amendments in Subpart FF reflect the repeal of certain rules by the Illinois General Assembly; the amendment in Subpart TT corrects the exemption for polyethylene foam packaging operations from the applicable control requirements; and the amendment in Appendix G corrects a typographical error.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Send written comments concerning R96-13 within 45 days of publication in the *Illinois Register* to:

Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, IL 60601
(312) 814-6931

and

Christina L. Archer
Assistant Counsel
Illinois Environmental Protection Agency
Bureau of Air
P.O. Box 19276
Springfield, IL 62794-9276
(217) 524-3333

12) Initial Regulatory Flexibility Analysis: No small businesses will be affected to a greater extent than allowed by current statutes and regulations.

A) Types of small businesses, small municipalities and not for profit corporations affected: No new small businesses will be affected by the amendments. In addition, the amendments are either nonsubstantive or are minor corrections to existing rules. In general, the amendments are to rules that affect sources engaged in coating operations, synthetic organic chemical and polymer manufacturing plants, bakeries, and polyethylene foam packaging operations.

B) Reporting, bookkeeping or other procedures required for compliance: There are no new recordkeeping requirements.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSIONS STANDARDS AND LIMITATIONS FOR STATIONARY SOURCES

PART 218
ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS
FOR THE CHICAGO AREA

SUBPART A: GENERAL PROVISIONS

Section
218.100 Introduction
218.101 Savings Clause
218.102 Abbreviations and Conversion Factors
218.103 Applicability
218.104 Definitions
218.105 Test Methods and Procedures
218.106 Compliance Dates
218.107 Operation of Afterburners
218.108 Exemptions, Variations, and Alternative Means of Control or Compliance Determinations
218.109 Vapor Pressure of Volatile Organic Liquids
218.110 Vapor Pressure of Organic Material or Solvent ~~Solvents~~
218.111 Vapor Pressure of Volatile Organic Material
218.112 Incorporations by Reference
218.113 Monitoring for Negligibly-Reactive Compounds
218.114 Compliance with Permit Conditions

SUBPART B: ORGANIC EMISSIONS FROM STORAGE AND LOADING OPERATIONS

Section
218.119 Applicability for VOL
218.120 Control Requirements for Storage Containers of VOL
218.121 Storage Containers of VPL
218.122 Loading Operations
218.123 Petroleum Liquid Storage Tanks
218.124 External Floating Roofs
218.125 Compliance Dates
218.126 Compliance Plan (Repealed)
218.127 Testing VOL Operations
218.128 Monitoring VOL Operations
218.129 Recordkeeping and Reporting for VOL Operations

SUBPART C: ORGANIC EMISSIONS FROM MISCELLANEOUS EQUIPMENT

Section
218.141 Separation Operations

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

218.142 Pumps and Compressors
218.143 Vapor Blowdown
218.144 Safety Relief Valves

SUBPART E: SOLVENT CLEANING

Section
218.181 Solvent Cleaning in General
218.182 Cold Cleaning
218.183 Open Top Vapor Degreasing
218.184 Conveyorized Degreasing
218.185 Compliance Schedule (Repealed)
218.186 Test Methods

SUBPART F: COATING OPERATIONS

Section
218.204 Emission Limitations
218.205 Daily-Weighted Average Limitations
218.206 Solids Basis Calculation
218.207 Alternative Emission Limitations
218.208 Exemptions From Emission Limitations
218.209 Exemption from General Rule on Use of Organic Material
218.210 Compliance Schedule
218.211 Recordkeeping and Reporting
218.212 Cross-Line Averaging to Establish Compliance for Coating Lines
218.213 Recordkeeping and Reporting for Cross-Line Averaging Participating Coating Lines
218.214 Changing Compliance Methods

SUBPART G: USE OF ORGANIC MATERIAL

Section
218.301 Use of Organic Material
218.302 Alternative Standard
218.303 Fuel Combustion Emission Units
218.304 Operations with Compliance Program

SUBPART H: PRINTING AND PUBLISHING

Section
218.401 Flexographic and Rotogravure Printing
218.402 Applicability
218.403 Compliance Schedule
218.404 Recordkeeping and Reporting
218.405 Lithographic Printing: Applicability
218.406 Provisions Applying to Heatset Web Offset Lithographic Printing Prior to March 15, 1996

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

218.407 Emission Limitations and Control Requirements for Lithographic Printing Lines On and After March 15, 1996
218.408 Compliance Schedule for Lithographic Printing on and After March 15, 1996
218.409 Testing for Lithographic Printing On and After March 15, 1996
218.410 Monitoring Requirements for Lithographic Printing
218.411 Recordkeeping and Reporting for Lithographic Printing

SUBPART Q: SYNTHETIC ORGANIC CHEMICAL AND POLYMER MANUFACTURING PLANT

Section
218.421 General Requirements
218.422 Inspection Program Plan for Leaks
218.423 Inspection Program for Leaks
218.424 Repairing Leaks
218.425 Recordkeeping for Leaks
218.426 Report for Leaks
218.427 Alternative Program for Leaks
218.428 Open-Ended Valves
218.429 Standards for Control Devices
218.430 Compliance Date (Repealed)
218.431 Applicability
218.432 Control Requirements
218.433 Performance and Testing Requirements
218.434 Monitoring Requirements
218.435 Recordkeeping and Reporting Requirements
218.436 Compliance Date

SUBPART R: PETROLEUM REFINING AND RELATED INDUSTRIES; ASPHALT MATERIALS

Section
218.441 Petroleum Refinery Waste Gas Disposal
218.442 Vacuum Producing Systems
218.443 Wastewater (Oil/Water) Separator
218.444 Process Unit Turnarounds
218.445 Leaks: General Requirements
218.446 Monitoring Program Plan for Leaks
218.447 Monitoring Program for Leaks
218.448 Recordkeeping for Leaks
218.449 Reporting for Leaks
218.450 Alternative Program for Leaks
218.451 Sealing Device Requirements
218.452 Compliance Schedule for Leaks
218.453 Compliance Dates (Repealed)

SUBPART S: RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section
218.461 Manufacture of Pneumatic Rubber Tires
218.462 Green Tire Spraying Operations
218.463 Alternative Emission Reduction Systems
218.464 Emission Testing
218.465 Compliance Dates (Repealed)
218.466 Compliance Plan (Repealed)

SUBPART T: PHARMACEUTICAL MANUFACTURING

Section
218.480 Applicability
218.481 Control of Reactors, Distillation Units, Crystallizers, Centrifuges and Vacuum Dryers
218.482 Control of Air Dryers, Production Equipment Exhaust Systems and Filters
218.483 Material Storage and Transfer
218.484 In-Process Tanks
218.485 Leaks
218.486 Other Emissions Units
218.487 Testing
218.488 Monitoring for Air Pollution Control Equipment
218.489 Recordkeeping for Air Pollution Control Equipment

SUBPART V: BATCH OPERATIONS AND AIR OXIDATION PROCESSES

Section
218.500 Applicability for Batch Operations
218.501 Control Requirements for Batch Operations
218.502 Determination of Uncontrolled Total Annual Mass Emissions and Average Flow Rate Values for Batch Operations
218.503 Performance and Testing Requirements for Batch Operations
218.504 Monitoring Requirements for Batch Operations
218.505 Reporting and Recordkeeping for Batch Operations
218.506 Compliance Date
218.520 Emission Limitations for Air Oxidation Processes
218.521 Definitions (Repealed)
218.522 Savings Clause
218.523 Compliance
218.524 Determination of Applicability
218.525 Emission Limitations for Air Oxidation Processes
218.526 Testing and Monitoring
218.527 Compliance Date (Repealed)

SUBPART W: AGRICULTURE

Section
218.541 Pesticide Exception

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

SUBPART X: CONSTRUCTION

Section
218.561 Architectural Coatings
218.562 Paving Operations
218.563 Cutback Asphalt

SUBPART Y: GASOLINE DISTRIBUTION

Section
218.581 Bulk Gasoline Plants
218.582 Bulk Gasoline Terminals
218.583 Gasoline Dispensing Operations - Storage Tank Filling Operations
218.584 Gasoline Delivery Vessels
218.585 Gasoline Volatility Standards
218.586 Gasoline Dispensing Operations - Motor Vehicle Fueling Operations

SUBPART Z: DRY CLEANERS

Section
218.601 Perchloroethylene Dry Cleaners
218.602 Applicability
218.603 Leaks
218.604 Compliance Dates (Repealed)
218.605 Compliance Plan (Repealed)
218.606 Exception to Compliance Plan (Repealed)
218.607 Standards for Petroleum Solvent Dry Cleaners
218.608 Operating Practices for Petroleum Solvent Dry Cleaners
218.609 Program for Inspection and Repair of Leaks
218.610 Testing and Monitoring
218.611 Applicability for Petroleum Solvent Dry Cleaners
218.612 Compliance Dates (Repealed)
218.613 Compliance Plan (Repealed)

SUBPART AA: PAINT AND INK MANUFACTURING

Section
218.620 Applicability
218.621 Exemption for Waterbase Material and Heatset Offset Ink
218.623 Permit Conditions (Repealed)
218.624 Open-Top Mills, Tanks, Vats or Vessels
218.625 Grinding Mills
218.626 Storage Tanks
218.628 Leaks
218.630 Clean Up
218.636 Compliance Schedule
218.637 Recordkeeping and Reporting

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

SUBPART BB: POLYSTYRENE PLANTS

Section
218.640 Applicability
218.642 Emissions Limitation at Polystyrene Plants
218.644 Emissions Testing

SUBPART CC: POLYESTER RESIN PRODUCT MANUFACTURING PROCESS

Section
218.660 Applicability
218.666 Control Requirements
218.667 Compliance Schedule
218.668 Testing
218.670 Recordkeeping and Reporting for Exempt Emission Units
218.672 Recordkeeping and Reporting for Subject Emission Units

SUBPART DD: AEROSOL CAN FILLING

Section
218.680 Applicability
218.686 Control Requirements
218.688 Testing
218.690 Recordkeeping and Reporting for Exempt Emission Units
218.692 Recordkeeping and Reporting for Subject Emission Units

SUBPART FF: BAKERY OVENS (Repealed)

Section
218.720 Applicability (Repealed)
218.722 Control Requirements (Repealed)
218.726 Testing (Repealed)
218.727 Monitoring (Repealed)
218.728 Recordkeeping and Reporting (Repealed)
218.729 Compliance Date (Repealed)
218.730 Certification (Repealed)

SUBPART GG: MARINE TERMINALS

Section
218.760 Applicability
218.762 Control Requirements
218.764 Compliance Certification
218.766 Leaks
218.768 Testing and Monitoring
218.770 Recordkeeping and Reporting

SUBPART HH: MOTOR VEHICLE REFINISHING

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section
218.780 Emission Limitations
218.782 Alternative Control Requirements
218.784 Equipment Specifications
218.786 Surface Preparation Materials
218.787 Work Practices
218.788 Testing
218.789 Monitoring and Recordkeeping for Control Devices
218.790 General Recordkeeping and Reporting
218.791 Compliance Date
218.792 Registration
218.875 Applicability of Subpart BB (Renumbered)
218.877 Emissions Limitation at Polystyrene Plants (Renumbered)
218.879 Compliance Date (Repealed)
218.881 Compliance Plan (Repealed)
218.883 Special Requirements for Compliance Plan (Repealed)
218.886 Emissions Testing (Renumbered)

SUBPART PP: MISCELLANEOUS FABRICATED PRODUCT MANUFACTURING PROCESSES

Section
218.920 Applicability
218.923 Permit Conditions (Repealed)
218.926 Control Requirements
218.927 Compliance Schedule
218.928 Testing

SUBPART QQ: MISCELLANEOUS FORMULATION MANUFACTURING PROCESSES

Section
218.940 Applicability
218.943 Permit Conditions (Repealed)
218.946 Control Requirements
218.947 Compliance Schedule
218.948 Testing

SUBPART RR: MISCELLANEOUS ORGANIC CHEMICAL MANUFACTURING PROCESSES

Section
218.960 Applicability
218.963 Permit Conditions (Repealed)
218.966 Control Requirements
218.967 Compliance Schedule
218.968 Testing

SUBPART TT: OTHER EMISSION UNITS

Section

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

218.980 Applicability
218.983 Permit Conditions (Repealed)
218.986 Control Requirements
218.987 Compliance Schedule
218.988 Testing

SUBPART UU: RECORDKEEPING AND REPORTING

Section
218.990 Exempt Emission Units
218.991 Subject Emission Units

APPENDIX A List of Chemicals Defining Synthetic Organic Chemical and Polymer Manufacturing
APPENDIX B VOM Measurement Techniques for Capture Efficiency
APPENDIX C Reference Methods and Procedures
APPENDIX D Coefficients for the Total Resource Effectiveness Index (TRE) Equation
APPENDIX E List of Affected Marine Terminals
APPENDIX G TRE Index Measurements for SOCMI Reactors and Distillation Units
APPENDIX H Baseline VOM Content Limitations for Subpart F, Section 218.212 Cross-Line Averaging

AUTHORITY: Implementing Section 10 and authorized by Section 28.5 of the Environmental Protection Act [415 ILCS 5/10 and 28.5].

SOURCE: Adopted in R91-7 at 15 Ill. Reg. 12231, effective August 16, 1991; amended in R91-24 at 16 Ill. Reg. 13564, effective August 24, 1992; amended in R91-28 and R91-30 at 16 Ill. Reg. 13864, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16636, effective September 27, 1993; amended in R93-14 at 18 Ill. Reg. 1945, effective January 24, 1994; amended in R94-12 at 18 Ill. Reg. 14973, effective September 21, 1994; amended in R94-15 at 18 Ill. Reg. 16392, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16950, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6848, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7359, effective May 22, 1995; amended in R96-13 at 20 Ill. Reg. _____, effective _____.

BOARD NOTE: This Part implements the Illinois Environmental Protection Act as of July 1, 1994.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses, subscript are denoted by brackets, and SUM means the summation series or sigma function as used in mathematics.

SUBPART A: GENERAL PROVISIONS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section 218.110 Vapor Pressure of Organic Material or Solvent

a) If the organic material or solvent consists of only a single compound, the vapor pressure shall be determined by ASTM Method D2879-86 (incorporated by reference in Section 218.112 of this Part) or the vapor pressure may be obtained from a publication such as: Boublik, T., V. Fried and E. Hala, "The Vapor Pressure of Pure Substances," Elsevier Scientific Publishing Co., New York (1973); Perry's Chemical Engineer's Handbook, McGraw-Hill Book Company (1984); CRC Handbook of Chemistry and Physics, Chemical Rubber Publishing Company (1986-87); and Lange's Handbook of Chemistry, John A. Dean, editor, McGraw-Hill Book Company (1985).

b) If the organic material or solvent is in a mixture made up of both organic material compounds and compounds which are not organic material, the vapor pressure shall be determined by the following equation:

$$P_{vom}[om] = \frac{\sum_{i=1}^{n} P[i]X[i]}{\sum_{i=1}^{n} X[i]}$$

where:

P[om] = Total vapor pressure of the portion of the mixture which is composed of organic material;

n = Number of organic material components in the mixture;

i = Subscript denoting an individual component;

P[i] = Vapor pressure of an organic material component determined in accordance with subsection (a) of this Section;

X[i] = Mole fraction of the organic material component of the total organic mixture

c) If the organic material or solvent is in a mixture made up of only organic material compounds, the vapor pressure shall be determined by ASTM Method D2879-86 (incorporated by reference in Section 218.112 of this Part) or by the above equation.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 218.111 Vapor Pressure of Volatile Organic Material

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

a) If the VOM consists of only a single compound, the vapor pressure shall be determined by ASTM Method D2879-86 (incorporated by reference in Section 218.112 of this Part) or the vapor pressure may be obtained from a publication such as: Boublik, T., V. Fried and E. Hala, "The Vapor Pressure of Pure Substances," Elsevier Scientific Publishing Co., New York (1973); Perry's Chemical Engineer's Handbook, McGraw-Hill Book Company (1984); CRC Handbook of Chemistry and Physics, Chemical Rubber Publishing Company (1986-87); and Lange's Handbook of Chemistry, John A. Dean, editor, McGraw-Hill Book Company (1985).

b) If the VOM is in a mixture made up of both VOM compounds and compounds which are not VOM, the vapor pressure shall be determined by the following equation:

$$P[vom] = \frac{\sum_{i=1}^{n} P[i]X[i]}{\sum_{i=1}^{n} X[i]}$$

where:

P[vom] = Total vapor pressure of the portion of the mixture which is composed of VOM

n = Number of VOM components in the mixture;

i = Subscript denoting an individual component;

P[i] = Vapor pressure of a VOM component determined in accordance with subsection (a) of this Section;

X[i] = Mole fraction of the VOM component of the total organic mixture

c) If the VOM is in a mixture made up of only VOM compounds, the vapor pressure shall be determined by ASTM Method D2879-86 (incorporated by reference in Section 218.112 of this Part) or by the above equation.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART F: COATING OPERATIONS

Section 218.208 Exemptions From Emission Limitations

a) Exemptions for all coating categories except wood furniture coating. The limitations of this Subpart shall not apply to coating lines

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

within a source, that otherwise would be subject to the same subsection of Section 218.204 (because they belong to the same coating category, e.g., can coating), provided that combined actual emissions of VOM from all lines at the source subject to that subsection never exceed 6.8 kg/day [15 lbs/day] before the application of capture systems and control devices. (For example, can coating lines within a source would not be subject to the limitations of Section 218.204(b) of this Subpart if the combined actual emissions of VOM from the can coating lines never exceed 6.8 kg/day [15 lbs/day] before the application of capture systems and control devices.) Volatile organic material emissions from heavy off-highway vehicle products coating lines must be combined with VOM emissions from miscellaneous metal parts and products coating lines to determine applicability. Any owner or operator of a coating source shall comply with the applicable coating analysis test methods and procedures specified in Section 218.105(a) of this Part and the recordkeeping and reporting requirements specified in Section 218.211(a) of this Subpart if total VOM emissions from the subject coating lines are always less than or equal to 6.8 kg/day [15 lbs/day] before the application of capture systems and control devices and, therefore, are not subject to the limitations of Section 218.204 of this Subpart. Once a category of coating lines at a source is subject to the limitations in Section 218.204 of this Subpart the coating lines are always subject to the limitations in Section 218.204 of this Subpart.

b) Applicability for wood furniture coating

1) The limitations of this Subpart shall apply to a source's wood furniture coating lines if the source contains process emission units, not regulated by Subparts B, E, F (excluding Section 218.204(l) of this Subpart), H (excluding Section 218.405 of this Part), Q, R, S, T (excluding Section 218.486 of this Part), V, X, Y, Z or BB of this Part, which as a group both:

A) Have a maximum theoretical emissions of 91 Mg (100 tons) or more per calendar year of VOM if no air pollution control equipment were used; and

B) Are not limited to less than 91 Mg (100 tons) of VOM per calendar year if no air pollution control equipment were used, through production or capacity limitations contained in a federally enforceable permit or SIP revision.

2) The limitations of this Subpart shall apply to a source's wood furniture coating lines, on and after March 15, 1996, if the source contains process emission units, which as a group, have a potential to emit 22.7 Mg (25 tons) or more of VOM per calendar year and have not limited emissions to less than 22.7 Mg (25 tons) of VOM per calendar year through production or capacity limitations contained in a federally enforceable operating permit or SIP revision, and which:

A) Are not regulated by Subparts B, E, F (excluding Section 218.204(l) of this Subpart), H, Q, R, S, T (excluding

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section 218.486 of this Part), V, X, Y, Z or BB of this Part; and

B) Are not included in any of the following categories: synthetic organic chemical manufacturing industry (SOCMI) distillation, SOCMI reactors, plastic parts coating (business machines), plastic parts coating (other), offset lithograpy, industrial wastewater, autobody refinishing, SOCMI batch processing, volatile organic liquid storage tanks and clean-up solvents operations.

3) If a source ceases to fulfill the criteria of subsections (b)(1) or (b)(2) of this Section, the limitations of Section 218.204(l) of this Subpart shall continue to apply to any wood furniture coating line which was ever subject to the limitations of Section 218.204(l) of this Subpart.

4) For the purposes of subsection (b) of this Section, an emission unit shall be considered to be regulated by a Subpart if it is subject to the limitations of that Subpart. An emission unit is not considered regulated by a Subpart if it is not subject to the limits of that Subpart, e.g., the emission unit is covered by an exemption in the Subpart or the applicability criteria of the Subpart are not met.

5) Any owner or operator of a wood furniture coating line to which the limitations of this Subpart are not applicable due to the criteria in subsection (b) of this Section shall, upon request by the Agency or the USEPA, submit records to the Agency and the USEPA within 30 calendar days from the date of the request that document that the coating line is exempt from the limitations of this Subpart.

c) On and after March 15, 1996, the limitations of this Subpart shall not apply to touch-up and repair coatings used by a coating source described by subsections 218.204(b), (d), (f), (g), (i), (j), (n) and (o) of this Subpart; provided that the source-wide volume of such coatings used does not exceed 0.95 l (1 quart) per eight-hour period or exceed 209 l/yr [55 gal/yr] for any rolling twelve month period. Recordkeeping and reporting for touch-up and repair coatings shall be consistent with subsection (d) of this Section ~~Section 218.211(b)(4) of this Subpart~~.

d) On and after March 15, 1996, the owner or operator of a coating line or a group of coating lines using touch-up and repair coatings that are exempted from the limitations of Section 218.204(b), (d), (f), (g), (i), (j), (n) and (o) of this Subpart because of the provisions of Section 218.208(c) of this Subpart shall:

1) Collect and record the name, identification number, and volume used of each touch-up and repair coating, as applied on each coating line, per eight-hour period and per month;

2) Perform calculations on a daily basis, and maintain at the source records of such calculations of the combined volume of touch-up and repair coatings used source-wide for each eight-hour period;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

3) Perform calculations on a monthly basis, and maintain at the source records of such calculations of the combined volume of touch-up and repair coatings used source-wide for the month and the rolling twelve month period;

4) Prepare and maintain at the source an annual summary of the information required to be compiled pursuant to subsections ~~subsection~~ (d)(1) and (d)(2) ~~(c)(4)(A) and (c)(4)(B)~~ of this Section on or before January 31 of the following year;

5) Maintain at the source for a minimum period of three years all records required to be kept under this subsection and make such records available to the Agency upon request;

6) Notify the Agency in writing if the use of touch-up and repair coatings at the source ever exceeds a volume of 0.95 l (1 quart) per eight-hour period or exceeds 209 l/yr (55 gal/yr) for any rolling twelve month period within 30 days after any such exceedance. Such notification shall include a copy of any records of such exceedance; and

7) "Touch-up and repair coatings" means, for purposes of 35 Ill. Adm. Code 218.208, any coating used to cover minor scratches and nicks that occur during manufacturing and assembly processes.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART Q: ~~LEAKS FROM~~ SYNTHETIC ORGANIC CHEMICAL AND POLYMER MANUFACTURING PLANT

Section 218.431 Applicability

a) The provisions of Sections 218.431 through 218.436 of this Subpart shall apply to:

1) Every owner or operator of any chemical manufacturing process unit that manufactures, as a primary product, one or more of the chemicals listed in Appendix A of this Part and that chemical manufacturing process unit causes or allows any reactor or distillation unit, either individually or in tandem, to discharge one or more process vent streams either directly to the atmosphere or to a recovery system; and

2) All continuous distillation and reactor process emission units not subject to Section 218.520 through 218.527 of this Part, and located within Stepan Company's Millsdale manufacturing facility, Elwood, Illinois.

b) Notwithstanding subsection (a) of this Section, the control requirements set forth within Section 218.432 of this Subpart shall not apply to the following:

1) Any process vent stream with a total resource effectiveness (TRE) index value greater than 1.0. However, such process vent stream remains subject to the performance testing requirements contained

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

in Section 218.433 of this Subpart and the reporting and recordkeeping requirements contained in Section 218.435 of this Subpart;

2) Any reactor or distillation unit that is designed and operated as a batch operation;

3) Any reactor or distillation unit that is part of a polymer manufacturing operation;

4) Any reactor or distillation unit that is part of the chemical manufacturing process unit with a total design capacity of less than 1 gigagram (1,100 tons) per year for all chemicals produced, as a primary product, within that process unit. However, such operations remain subject to the reporting and recordkeeping requirements contained in Section 218.435(d) of this Subpart; ~~or~~

5) Any vent stream with a flow rate less than 0.0085 scm/min or a total VOM concentration of less than 500 ppmv, less methane and ethane, as measured by Method 18, or a concentration of VOM of less than 250 ppmv as measured by Method 25A. However, such operations remain subject to the performance testing requirement listed in Section 218.433 of this Subpart, as well as the reporting and recordkeeping requirements contained in Section 218.435 of this Subpart; or~~.~~

6) Any reactor or distillation unit included within an Early Reduction Program, as specified in 40 CFR 63, and published in 57 Fed. Reg. 61970 (December 29, 1992), ~~(October 22, 1993),~~ evidenced by a timely enforceable commitment approved by USEPA.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 218.434 Monitoring Requirements

a) The owner or operator of a source subject to the control requirements in Section 218.432 of this Subpart that uses an incinerator to comply with the VOM emission limitation specified in Section 218.432(a)(1) shall install, calibrate, maintain, and operate, according to manufacturer's specifications, a temperature monitoring device equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature measured expressed in degress Celsius, or ± 0.5° C, whichever is greater.

1) Where an incinerator other than a catalytic incinerator is used, a temperature monitoring device shall be installed in the firebox.

2) Where a catalytic incinerator is used, temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

b) The owner or operator of a source that uses a flare to comply with Section 218.432(a)(2) of this Subpart shall install, calibrate, maintain, and operate, according to manufacturer's specifications, a

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

heat-sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light to indicate continuous presence of a flame.

c) The owner or operator of a source that uses a boiler or process heater with a design heat input capacity less than 44 megawatts to comply with Section 218.432(a)(1) of this Subpart shall install, calibrate, maintain, and operate, according to the manufacturer's specifications, a temperature monitoring device in the firebox. The monitoring device shall be equipped with a continuous recorder with an accuracy of ± 1 percent of the temperature being measured expressed in degrees Celsius or ± 0.5° C, whichever is greater. Any boiler or process heater in which all vent streams are introduced with primary fuel is exempt from this requirement.

d) The owner or operator of a process vent with a TRE index value of 4.0 or less that uses one or more product recovery devices shall install either an organic monitoring device equipped with a continuous recorder or the monitoring equipment specified in subsections (d)(1), (d)(2), (d)(3), or (d)(4) of this Section, depending on the type of recovery device used. All monitoring equipment shall be installed, calibrated, and maintained according to the manufacturer's specifications.

1) Where an absorber is the final recovery device in the recovery system, a scrubbing liquid temperature monitoring device and a specific gravity monitoring device, each equipped with a continuous recorder, shall be used.

2) Where a condenser is the final recovery device in the recovery system, a condenser exit (product side) temperature monitoring device equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or ± 0.5° C, whichever is greater.

3) Where a carbon adsorber is the final recovery device in the recovery system, an integrating regeneration steam ~~stream~~ flow monitoring device having an accuracy of ± 10 percent, capable of recording the total regeneration steam ~~stream~~ mass flow for each regeneration cycle; and a carbon bed temperature monitoring device having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius of ± 0.5° C, capable of recording the carbon bed temperature after each regeneration and within 15 minutes of completing any cooling cycle.

4) Where a scrubber is used with an incinerator, boiler, or, in the case of halogenated vent streams, a process heater, the following monitoring equipment is required for the scrubber:

A) A pH monitoring device equipped with a continuous recorder to monitor the pH of the scrubber effluent; and

B) Flow meters equipped with a continuous recorder at the scrubber influent for liquid flow and the scrubber inlet for gas stream flow.

e) The owner or operator of a process vent using a vent system that

contains bypass lines capable of diverting a vent stream away from the control device associated with a process vent shall comply with either (e)(1) or (e)(2) of this Section. Equipment needed for safety purposes, including, but not limited to, pressure relief devices, are not subject to this subsection.

1) The owner or operator shall install, calibrate, maintain, and operate a flow indicator that provides a record of vent stream flow at least once every 15 minutes. The flow indicator shall be installed at the entrance to any bypass line that could divert the vent stream away from the control device to the atmosphere.

2) The owner or operator shall secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and the vent stream is not diverted through the bypass line.

f) The owner or operator of a process vent may monitor by an equivalent alternative means or parameters other than those listed in subsections (a) through (d) of this Section. Any equivalent alternative shall be approved by the Agency and USEPA, and contained in the source's operating permit as federally enforceable permit conditions.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 218.435 Recordkeeping and Reporting Requirements

a) Every owner or operator of a reactor or distillation unit with a TRE index value of 4.0 or less shall keep records, for a minimum of 3 years, of the following parameters measured during a performance test or TRE determination required under Section 218.433 of this Subpart, and required to be monitored under Section 218.434 of this Subpart.

1) Every owner or operator of a source that seeks to demonstrate compliance with Section 218.432(a)(1) of this Subpart through the use of either a thermal or catalytic incinerator shall maintain records of the following:

A) The average firebox temperature of the incinerator (or the average temperature upstream and downstream of the catalyst bed for a catalytic incinerator), measured at least every 15 minutes and averaged over the same time period of the performance testing; and

B) The percent reduction of VOM determined as specified in Section 218.433(c) of this Subpart achieved by the incinerator, or the concentration of VOM (ppmv, by compound) determined as specified in Section 218.433(c) of this Subpart at the outlet of the control device, on a dry basis, corrected to 3 percent oxygen.

2) Every owner or operator of a source that seeks to demonstrate

compliance with Section 218.432(a)(1) of this Subpart through the use of a boiler or process heater shall maintain the records described below. Any boiler or process heater in which all vent streams are introduced with primary fuel are exempt from these requirements.

A) A description of the location at which the vent stream is introduced into the boiler or process heater; and

B) The average combustion temperature of the boiler or process heater with a design heat input capacity of less than 44 megawatt measured at least every 15 minutes and averaged over the same time period of the performance testing.

3) Every owner or operator of a source that seeks to demonstrate compliance with Section 218.432(a)(2) of this Subpart through use of a smokeless flare, or flare design (i.e., steam-assisted, air-assisted, or nonassisted), shall maintain records of all visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the performance test, continuous records of the flare pilot flame monitoring, and records of all periods of operations during which the pilot flame is absent.

4) Every owner or operator of a source that seeks to demonstrate compliance with Section 218.432(b) of this Subpart shall maintain records of the following:

A) Where an absorber is the final recovery device in the recovery system, the exit specific gravity (or alternative parameter which is a measure of the degree of absorbing liquid saturation, if approved by the Agency and USEPA, and average exit temperature of the absorbing liquid measured at least every 15 minutes and averaged over the same time period as the performance testing (both measured while the vent stream is normally routed and constituted);

B) Where a condenser is the final recovery device in the recovery system, the average exit (product side) temperature measured at least every 15 minutes and averaged over the same time period as the performance testing while the vent stream is normally routed and constituted;

C) Where a carbon adsorber is the final recovery device in the recovery system, the total steam ~~stream~~ mass or volumetric flow measured at least every 15 minutes and averaged over the same time period as the performance testing (full carbon bed cycle), the temperature of the carbon bed after regeneration (and within 15 minutes of completion of any cooling cycle(s)), and duration of the carbon bed steaming cycle (all measured while the vent stream is normally routed and constituted);

D) As an alternative to subsection (a)(4)(A), (a)(4)(B) or (a)(4)(C) of this Section, the concentration level or reading indicated by the organic monitoring device at the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

outlet of the absorber, condenser, or carbon absorber, measured at least every 15 minutes and averaged over the same time period as the performance testing (measured while the vent stream is normally routed and constituted); or

E) All measurements and calculations performed to determine the flow rate, VOM concentration, heating value, and TRE index value of the vent stream.

b) Every owner or operator of a reactor or distillation unit with a TRE index value of less than 4.0 shall be subject to the exceedance reporting requirements of the draft Enhanced Monitoring Guidelines as published at 58 Fed. Reg. 54648 (October 22, 1993).

c) Every owner or operator of a source seeking to comply with Section 218.432(b) of this Subpart shall maintain records of the following:

1) Any changes in production capacity, feedstock type, catalyst type, or of any replacement, removal, or addition of recovery equipment or reactors and distillation units; and

2) Any recalculation of the flow rate, VOM concentration, or TRE index value calculated according to subsection Section (c) of Appendix G of this Part.

d) Every owner or operator of a source claiming a design capacity of less than 1 gigagram (1,100 tons) per year, as contained in Section 218.431(b) of this Subpart, shall maintain records of the design capacity or any changes in equipment or operations that may affect the design capacity.

e) Every owner or operator of a source claiming a vent stream flow rate or vent stream concentration exemption level, as contained in Section 218.431(b)(5) of this Subpart, shall maintain records to indicate that the stream flow rate is less than 0.0085 scm/min or the vent stream concentration is less than 500 ppmv.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART FF: BAKERY OVENS (REPEALED)

Section 218.720 Applicability (Repealed)

~~a) The provisions of this Subpart shall apply to every owner or operator of a source which operates a bakery oven, as defined at 35 Ill. Adm. Code 211.6080, unless the source bakes products only for on-site human consumption or on site retail sale.~~

~~b) Notwithstanding subsection (a) of this Section, a source is required to comply with the control requirements of this Subpart only if the source has the potential to emit 22.7 Mg (25 tons) or more of VOM per year, in the aggregate, from all emission units at the source, excluding:~~

~~1) Emission units regulated by Subparts B, B, P, H, Q, R, S, T (excluding Section 218.486 of this Part), V, X, Y, Z or BB of this Part, and~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

~~2) Emission units that are included in any of the following categories: synthetic organic chemical manufacturing industry (SOCMI) distillation, SOCMI reactors, wood furniture coating, plastic parts coating (business machines), plastic parts coating (other), offset lithography, industrial wastewater, autobody refinishing, SOCMI batch processing, volatile organic liquid storage tanks and clean up solvents operations.~~

~~c) Every owner or operator of a source which has limited its potential to emit below 22.7 Mg (25 tons) of VOM per year, as specified in subsection (b) of this Section, through federally enforceable permit conditions is not required to comply with this Subpart.~~

~~d) Every owner or operator of a bakery oven which is exempt from the control requirements of this Subpart because of the criteria in subsection (b) of this Section remains subject to the recordkeeping and reporting requirements of Section 218.720(b) of this Subpart and the certification requirements in Section 218.730(d) of this Subpart.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 218.722 Control Requirements (Repealed)

~~a) Every owner or operator of a source subject to the control requirements of this Subpart shall comply with the requirements of subsection (a)(1) or (a)(2) of this Section for each bakery oven with a rated heat input capacity of at least 2 mmbtu/hr or at least 586 kW:~~

~~1) Operate emissions capture and control equipment which achieves an overall reduction in uncontrolled VOM emissions of at least 81 percent from each such bakery oven; or~~

~~2) Provide an equivalent alternative control plan for such bakery ovens at the source which has been approved by the Agency and USEPA through federally enforceable permit conditions or as a SIP revision.~~

~~b) An owner or operator of a source subject to the control requirements of this Subpart may elect to exempt from the control requirements in subsections (a)(1) or (a)(2) and (c)(1) or (c)(2) of this Section any bakery oven with actual VOM emissions less than or equal to 15 TPY, provided that the total actual VOM emissions from all such exempt bakery ovens never exceed 25 TPY.~~

~~c) Notwithstanding the requirements in subsection (a) of this Section, until March 15, 1998, only, a source may elect to comply with the control requirements in subsection (c)(1) or (c)(2) of this Section, rather than the control requirements in subsection (a)(1) or (a)(2) of this Section, if all emission units at the source, in the aggregate, excluding emission units regulated by Subparts B, E, P, H (excluding Section 218.485 of this Subpart), Q, R, S, T (excluding Section~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

218.406 of this Subpart), V, X, Y, Z or BB of this Part, have maximum theoretical emissions of less than 90.7 Mg (100 tons) of VOM per year or are limited to less than 90.7 Mg (100 tons) of VOM emissions per calendar year in the absence of air pollution control equipment through production or capacity limitations contained in federally enforceable permit conditions or in a SIP revision:

1) Operate emissions capture and control equipment which achieves an overall reduction in uncontrolled VOM emissions of at least 60 percent from each bakery oven with a rated heat input capacity of at least 2 mmbtu/hr or at least 586 KW; or

2) Provide an equivalent alternative control plan for such bakery ovens at the source which has been approved by the Agency and USEPA through federally enforceable permit conditions or as a SIP revision.

d) Any bakery oven that becomes subject to the requirements of this Subpart at any time shall remain subject to the requirements of this Subpart at all times thereafter.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 218.726 Testing (Repealed)

a) Upon request by the Agency, the owner or operator of a bakery oven shall, at its own expense, conduct such tests in accordance with the applicable test methods and procedures specified in Section 218.105(f) of this Part to demonstrate compliance with the control requirements of this Subpart and shall:

1) Notify the Agency 30 days prior to conducting such tests; and

2) Submit all test results to the Agency within 45 days after conducting such tests.

b) Nothing in this Section shall limit the authority of USEPA pursuant to the Clean Air Act (CAA) to require testing or shall affect the authority of USEPA under Section 114 of the CAA (42 U.S.C. 7414 (1990)).

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 218.727 Monitoring (Repealed)

a) Every owner or operator of a bakery oven subject to the control requirements of this Subpart shall install and operate at all times a device to continuously monitor the following parameters for each type of control device as follows:

1) For catalytic oxidizers, the inlet and outlet temperatures of the oxidizer;

2) For regenerative oxidizers, the temperature in the combustion

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

chamber; or

3) For thermal incinerators, the temperature in the combustion chamber.

b) The owner or operator may monitor with an alternative method or monitor other parameters if approved by the Agency and USEPA through federally enforceable permit conditions or as a SIP revision.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 218.728 Recordkeeping and Reporting (Repealed)

a) Every owner or operator of a bakery oven shall maintain the following records for the most recent consecutive 3 year period for all bakery ovens subject to the control requirements of this Subpart. Such records shall be made available to the Agency immediately upon request.

1) Parameters for control devices as monitored pursuant to Section 218.727 of this Subpart;

2) Hrs/day of operation of each bakery oven;

3) Factors necessary to calculate VOM emissions for all bakery ovens including, but not limited to, type of dough used for each yeast leavened baked product, initial yeast percentage for each product, total fermentation time for each product, any additional percentage of yeast added, and the fermentation time of any additional yeast;

4) Calculated daily VOM emissions of each bakery oven expressed as lbs/day;

5) Total amount of each type of yeast leavened bread product produced by each bakery oven expressed as lbs/day.

b) Every owner or operator of a bakery oven which is exempt from the control requirements of this Subpart because of the criteria in Section 218.720(b) of this Subpart shall maintain records necessary to demonstrate that its potential to emit is less than 22.7 Mg (25 tons) of VOM per year, as specified in Section 218.720(b). Such records shall be maintained for the most recent consecutive 3 year period and shall be made available to the Agency immediately upon request.

e) Every owner or operator of a bakery oven which is exempt from the control requirements of this Subpart because of the criteria specified in Section 218.722(b) of this Subpart shall:

1) Maintain records necessary to demonstrate that the actual VOM emissions from exempt bakery ovens are less than or equal to 15 TPY for each bakery oven and less than or equal to 25 TPY from all exempt bakery ovens combined. Such records shall be maintained for the most recent consecutive 3 year period and shall be made available to the Agency immediately upon request; and

2) Notify the Agency in writing if the actual VOM emissions from an

exempt-bakery-oven-ever-exceed-15-TPY-or-the-actual-VOM-emissions from--a--combination--of--exempt-bakery-ovens-ever-exceed-25-TPY, within-30-days-after-the-exceedance-occurs.---Such--notice--shall include-a-copy-of-all-records-of-the-exceedance.

d) Every--owner--or--operator--of--a--bakery--oven--which--is-controlling emissions-as-provided-in-Section--218.722(c)--of--this--Subpart--until March--15,--1990,-shall-maintain-records-necessary-to-demonstrate-that its-maximum-theoretical-emissions-as-specified-in--Section--218.722(c) are--less-than-90.7-Mg-(100-tons)-of-VOM-per-year.--Such-records-shall be-maintained-for-the-most-recent-consecutive-3-year-period-and--shall be-made-available-to-the-Agency-immediately-upon-request.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 218.729 Compliance Date (Repealed)

On-and-after-March-15,-1996,-upon-initial-startup-or-upon--modification,--every owner--or--operator--of--a-source-subject-to-this-Subpart-shall-comply-with-the requirements-of-this-Subpart.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 218.730 Certification (Repealed)

a) Every--owner--or--operator--of--a--source--subject--to--the----control requirements--of--this--Subpart--shall--certify--compliance--with-this Subpart-on-or-before-a-date-consistent-with-Section--218.729--of--this Subpart.

b) If--an--owner--or--operator--of--a--bakery-oven-subject-to-the-control requirements-of-this-Subpart-changes-the--method--of--compliance,--the owner--or--operator--shall-certify-compliance-with-the-requirements-of this-Subpart-for-the-alternative-method-upon-changing--the--method--of compliance.

c) All--certifications--of-compliance-with-this-Subpart-shall-include-the results-of-all-tests-and-the--calculations--performed--to--demonstrate that-each-oven-at-the-source-is-in-compliance-with,-or-is-exempt-from, the--control--requirements--of--this-Subpart.--The-certification-shall include-the-following:

1) The--name--and--identification--number--of--each--oven--and---any associated-capture-and-control-device;

2) The-maximum-rated-heat-input-of-each-oven;

3) A--classification--of--each--oven--as--either--a-"bakery-oven"-as defined-in-35-Ill.-Adm.-Code-211.600-or-an-oven-used--exclusively to-bake-non-yeast--leavened-products;

4) The--capture--and--control-efficiency-of-each-bakery-oven-control device;

5) Test--reports,--calculations--and---other---data---necessary---to demonstrate--that--the--capture--and--control--efficiency-of-each bakery-oven-control--device--achieves--an--overall--reduction--in uncontrolled-VOM-emissions-of-at-least-81-percent;-and

6) The--date--each--bakery--oven--control--device--was-installed-and operating.

d) On-or-before-March-15,-1996,-or-upon-initial-startup,-every--owner--or operator---of---a--bakery--oven--which--is--exempt--from--the--control requirements-of-this--Subpart--because--of--the--criteria--in--Section 218.720(b)-of-this-Subpart-shall-certify-that-its-potential-to-emit-is less--than--22.7-Mg-(25-tons)-of-VOM-per-year,-as-specified-in-Section 218.720(b).

e) On-or-before-March-15,-1996,-or-upon-initial-startup,-every--owner--or operator---of---a--bakery--oven--which--is--exempt--from--the--control requirements-of-this-Subpart-because--of--the--criteria--specified--in Section--218.722(b)--of--this--Subpart--shall--certify-that-actual-VOM emissions-from-any-individual-exempt-bakery-oven-never-exceed--15--TPY and-that-VOM-emissions-from-all-exempt-bakery-ovens,-in-the-aggregate, never-exceed-25-TPY.

f) On-or-before-March-15,-1996,-or-upon-initial-startup-if-prior-to-March 15,--1990,--every--owner--or--operator--of--a--bakery--oven--which--is controlling--emissions--as--provided--by--Section--218.722(c)--of-this Subpart-shall--certify--that--its--maximum--theoretical--emissions--as specified--in--Section--218.722(c)-are-less-than-90.7-Mg-(100-tons)-of VOM-per-year.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

SUBPART TT: OTHER EMISSION UNITS

Section 218.980 Applicability

a) Maximum theoretical emissions:

1) A source is subject to this Subpart if it contains process emission units not regulated by Subparts B, E, F (excluding Section 218.204(l) of this Part), H (excluding Section 218.405 of this Part), Q, R, S, T (excluding Section 218.486 of this Part), V, X, Y, Z or BB of this Part, which as a group both:

A) Have maximum theoretical emissions of 90.7 Mg (100 tons) or more per calendar year of VOM, and

B) Are not limited to less than 90.7 Mg (100 tons) of VOM emissions per calendar year in the absence of air pollution control equipment through production or capacity limitations contained in a federally enforceable permit or a SIP revision.

2) If a source is subject to this Subpart as provided in this Subpart, the requirements of this Subpart shall apply to a

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

source's VOM emission units which are not included within any of the categories specified in Subparts B, E, F, H, Q, R, S, T, V, X, Y, Z, AA, BB, PP, QQ, or RR of this Part or which are not exempted from permitting requirements pursuant to 35 Ill. Adm. Code 201.146.

b) Potential to emit:

1) A source is subject to this Subpart if it has the potential to emit 22.7 Mg (25 tons) or more of VOM per year, in aggregate, from emission units, other than furnaces at glass container manufacturing sources and VOM leaks from components, that are:

A) Not regulated by Subparts B, E, F, H, Q, R, S, T, (excluding Section 218.486 of this Part), V, X, Y, Z, or BB of this Part, or

B) Not included in any of the following categories: synthetic organic chemical manufacturing industry (SOCMI) distillation, SOCMI reactors, wood furniture, plastic parts coating (business machines), plastic parts coating (other), offset lithography, industrial wastewater, autobody refinishing, SOCMI batch processing, volatile organic liquid storage tanks and clean-up solvents operations.

2) If a source is subject to this Subpart as provided above, the requirements of this Subpart shall apply to a source's VOM emission units, which are:

A) Not included within any of the categories specified in Subparts B, E, F, H, Q, R, S, T, V, X, Y, Z, AA, BB, CC, DD, PP, QQ or RR of this Part, or which are not exempted from permitting requirements pursuant to 35 Ill. Adm. Code 201.146 (excluding Section 201.146(o) and (p)), or

B) Not included in any of the following categories: synthetic organic chemical manufacturing industry (SOCMI) distillation, SOCMI reactors, wood furniture, plastic parts coating (business machines), plastic parts coating (other), offset lithography, industrial wastewater, autobody refinishing, SOCMI batch processing, volatile organic liquid storage tanks and clean-up solvents operations.

c) If a source ceases to fulfill the criteria of subsections (a) and/or (b) of this Section, the requirements of this Subpart shall continue to apply to an emission unit which was subject to the control requirements of Section 218.986 of this Part.

d) No limits under this Subpart shall apply to emission units with emissions of VOM to the atmosphere less than or equal to 2.3 Mg (2.5 tons) per calendar year if the total emissions from such emission units not complying with Section 218.986 of this Part does not exceed 4.5 Mg (5.0 tons) per calendar year.

e) For the purposes of this Subpart, an emission unit shall be considered regulated by a Subpart, if it is subject to the limits of that Subpart. An emission unit is considered not regulated by a Subpart if it is not subject to the limits of that Subpart, e.g., the emission

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

unit is covered by an exemption in the Subpart or the applicability criteria of the Subpart are not met.

f) The control requirements in Subpart TT shall not apply to sewage treatment plants; vegetable oil extraction and processing; coke ovens (including by-product recovery plants); fuel combustion units; bakeries; barge loading facilities; jet engine test cells; production of polystyrene foam insulation board including storage and extrusion of scrap where blowing agent is added to the polystyrene resin at the source, but not including blending and preliminary expansion of resin prior to molding where blowing agent is incorporated into the polystyrene resin by the producer of the resin; production of polystyrene or polyethylene foam packaging not including blending and preliminary expansion of resin prior to molding where blowing agent is incorporated into the polystyrene or polyethylene resin by the producer of the resin, and not including storage and extrusion of scrap where blowing agent is added to the polystyrene or polyethylene resin at the source; and iron and steel production; and furnaces at glass container manufacturing sources.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section 218.APPENDIX G TRE Index Measurements for SOCMI Reactors and Distillation Units

For purposes of Subpart Q, Sections 218.431 through 218.435, the following apply:

a) The following test methods shall be used to determine compliance with the total resource effectiveness ("TRE") index value:

1) Method 1 or 1A, incorporated by reference at Section 218.112 of this Part, as appropriate, for selection of the sampling site.

A) The sampling site for the vent stream molar composition determination and flow rate prescribed in subsections (a)(2) and (a)(3) of this Appendix shall be, except for the situations outlined in subsection (a)(1)(B), after the final recovery device, if a recovery system is present, prior to the inlet of any control device, and prior to any post-reactor or post-distillation unit introduction of halogenated compounds into the vent stream. No traverse site selection method is needed for vents smaller than 10 cm in diameter.

B) If any gas stream other than the reactor or distillation unit vent stream is normally conducted through the final recovery device:

i) The sampling site for vent stream flow rate and molar composition shall be prior to the final recovery device and prior to the point at which any nonreactor or nondistillation unit vent stream or stream from a nonaffected reactor or distillation unit is introduced. Method 18 incorporated by reference at Section 218.112 of this Part, shall be used to measure organic compound concentrations at this site.

ii) The efficiency of the final recovery device is determined by measuring the organic compound concentrations using Method 18, incorporated by reference at Section 218.112 of this Part, at the inlet to the final recovery device after the introduction of all vent streams and at the outlet of the final recovery device.

iii) The efficiency of the final recovery device determined according to subsection (a)(1)(B)(ii) of this Appendix shall be applied to the organic compound concentrations measured according to subsection (a)(1)(B)(i) of this Appendix to determine the concentrations of organic compounds from the final recovery device attributable to the reactor or distillation unit vent stream. The resulting organic compound concentrations are then used to perform the calculations outlined in subsection (a)(4) of this Appendix.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

2) The molar composition of the vent stream shall be determined as follows:

A) Method 18, incorporated by reference at Section 218.112 of this Part, to measure the concentration of organic compounds including those containing halogens;

B) ASTM D1946-77, incorporated by reference at Section 218.112 of this Part, to measure the concentration of carbon monoxide and hydrogen; and

C) Method 4, incorporated by reference at Section 218.112 of this Part, to measure the content of water vapor.

3) The volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D, incorporated by reference at Section 218.112 of this Part, as appropriate.

4) The emission rate of VOM (minus methane and ethane) (E[VOM]) in the vent stream shall be calculated using the following formula:

$$E[VOM] = K[2] \sum_{j=1}^{n} C[j]M[j] Q[s]$$

where:

E[VOM] = Emission rate of VOM (minus methane and ethane) in the sample, kg/hr.

K[2] = Constant, 2.494 x 10(-6) (1/ppmv)(g-mole/scm)(kg/g)(min/hr), where standard temperature for (g-mole/scm) is 20° C.

C[j] = Concentration of compound j, on a dry basis, in ppmv as measured by Method 18, incorporated by reference at Section 218.112 of this Part, as indicated in Section 218.433(c)(3) of this Part.

M[j] = Molecular weight of sample j, g/g-mole.

Q[s] = Vent stream flow rate (scm) at a temperature of 20° C.

5) The total vent stream concentration (by volume) of compounds containing halogens (ppmv, by compound) shall be summed from the individual concentrations of compounds containing halogens which were measured by Method 18, incorporated by reference at Section 218.112 of this Part.

6) The net heating value of the vent stream shall be calculated using the following:

$$H[T] = K[1] \sum_{j=1}^{n} C[j]H[j] (1-B[ws])$$

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

where:

H[T] = Net heating value of the sample (MJ/scm), where the net enthaply per mole of vent stream is based on combustion of 25° C and 760 mmHG, but the standard temperature for determining the volume corresponding to one mole is 20° C ~~25°C~~, as in the definition of Q[s] (vent stream flow rate).

K[1] = Constant, 1.740 x 10(-7) (ppmv)(-1) (g-mole/scm), (MJ/KCal), where standard temperature for (g-mole/scm) is 20° C.

B[ws] = Water vapor content of the vent stream, proportion by volume; except that if the vent stream passes through a final stream jet and is not condensed, it shall be assumed that B[ws] = 0.023 in order to correct to 2.3 percent moisture.

C[j] = Concentration on a dry basis of compound j in ppmv, as measured for all organic compounds by Method 18, incorporated by reference at Section 218.112 of this Part, and measured for hydrogen and carbon monoxide by using ASTM D1946-77, incorporated by reference at Section 218.112 of this Part.

H[j] = Net heat of combustion of compound j, kCal/g-mole, based on combustion at 25° C and 760 mmHG. The heats of combustion of vent stream components shall be determined using ASTM D2382-83, incorporated by reference at Section 218.112 of this Part, if published values are not available or cannot be calculated.

b)

1) The TRE index value of the vent shall be calculated using the following:

$$TRE = \frac{1}{E[VOM]} [a + b (Q[s]) + c (H[T]) + d (E[VOM])]$$

where:

TRE = TRE index value.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

E[VOM] = Hourly emission rate of VOM (kg/hr) as calculated in subsection (a)(4) of this Appendix.

Q[s] = Vent stream flow rate scm/min at a standard temperature of 20° C.

H[T] = Vent stream net heating value (MJ/scm), as calculated in subsection (a)(6) of this Appendix.

E[VOM] = Hourly emission rate of VOM (minus methane and ethane), (kg/hr) as calculated in subsection (a)(4) of this Appendix.

a,b, c,d = Value of coefficients presented below are:

		Value of Coefficients			
Type of Stream	Control Device Basis	a	b	c	d
Nonhalogenated	Flare	2.129	0.183	-0.005	0.359
	Thermal incinerator zero (0) Percent heat Recovery	3.075	0.021	-0.037	0.018
	Thermal incinerator 70 Percent heat Recovery	3.803	0.032	-0.042	0.007
Halogenated	Thermal incinerator and scrubber	5.470	0.181	-0.040	0.004

2) Every owner or operator of a vent stream shall use the applicable coefficients identified for values a, b, c, and d in subsection (b)(1) of this Appendix to calculate the TRE index value based on a flare, a thermal incinerator with zero (0) percent heat recovery, and a thermal incinerator with 70 percent heat recovery, and shall select the lowest TRE index value.

3) Every owner or operator of a reactor or distillation unit with a halogenated vent stream, determined as any stream with a total concentration of halogen atoms contained in organic compounds of 200 ppmv or greater, shall use the applicable coefficients identified for values a, b, c and d in subsection (b)(1) of this Appendix to calculate the TRE index value based on a thermal

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

incinerator and scrubber.

c) Every owner or operator of a source seeking to comply with Section 218.432(b) of this Part shall recalculate the flow rate and VOM concentration for each affected vent stream whenever process changes are made. Examples of process changes include, but are not limited to, changes in production capacity, feedstock type, or catalyst type, or whenever there is replacement, removal, or addition of recovery equipment. The flow rate and VOM concentration shall be recalculated based on test data, or on best engineering estimates of the effects of the change to the recovery system.

d) Whenever a process change, as defined in Section 218.435(c) of this Subpart, yields a TRE index value of 1.0 or less, the owner or operator shall notify and submit a report to the Agency according to the requirements specified in Section 218.435(c) of this Subpart, within 180 calendar days after the process change and shall conduct a performance test according to the methods and procedures required by Section 218.433 of this Part.

e) For the purpose of demonstrating that a process vent stream has a VOM concentration below 500 ppmv, the following shall be used:

1) The sampling site shall be selected as specified in Section 218.433(c)(1) of this Part.

2) Method 18 or Method 25A of 40 CFR Part 60, Appendix A, incorporated by reference at Section 218.112 of this Part, shall be used to measure concentration; alternatively, any other method or data that has been validated according to the protocol in Method 301 of 40 CFR Part 63, Appendix A, incorporated by reference at Section 218.112 of this Part, may be used.

3) Where Method 18 is used, the following procedures shall be used to calculate ppmv concentration:

i) The minimum sampling time for each run shall be 1 hour in which either an integrated sample or four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals in time, such as 15 minute intervals during the run.

ii) The concentration of VOM shall be calculated using Method 18 according to Section 218.433(c)(4) of this Part.

4) Where Method 25A is used, the following procedures shall be used to calculate ppmv VOM concentration:

i) Method 25A shall be used only if a single VOM is greater than 50 percent of total VOM, by volume, in the process vent stream.

ii) The vent stream composition may be determined by either process knowledge, test data collected using an appropriate Reference Method or a method of data collection validated according to the protocol in Method 301 of 40 CFR Part 63, Appendix A, incorporated by reference at Section 218.112 of this Part. Examples of information that constitute process knowledge include calculations based on material balances,

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

process stoichiometry, or previous test results provided the results are still relevant to the current process vent stream conditions.

iii) The VOM used as the calibration gas for Method 25A shall be the single VOM present at greater than 50 percent of the total VOM by volume.

iv) The span value for Method 25A shall be 50 ppmv.

v) Use of Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

vi) The concentration of VOM shall be corrected to 3 percent oxygen using the procedures and equation in Section 218.433(c)(3) of this Part.

5) The owner or operator shall demonstrate that the concentration of VOM, including methane and ethane, measured by Method 25A is below 250 ppmv to qualify for the low concentration exclusion in Section 218.431 of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Organic Material Emission Standards and Limitations for Metro East Area

2) Code Citation: 35 Ill. Adm. Code 219

3) Section Numbers: Proposed Action:

219.108	Amended
219.110	Amended
219.111	Amended
219.208	Amended
219.431	Amended
219.434	Amended
219.435	Amended
219.720	Repealed
219.722	Repealed
219.726	Repealed
219.727	Repealed
219.728	Repealed
219.729	Repealed
219.730	Repealed
Appendix G	Amended

4) Statutory Authority: 415 ILCS 5/27 and 28.5

5) A Complete Description of the Subjects and Issues Involved: This rulemaking proposes amendments to five Subparts of 35 Ill. Adm. Code 219 pursuant to the Rate of Progress Plan submitted to USEPA on November 15, 1993, the Reasonably Available Control Technology rules for major sources and the Omnibus Cleanup of the volatile organic material rules, all required by the Clean Air Act, as amended in 1990. The amendments to Subpart A, General Provisions, add the concept of allowing a source to propose an "equivalent alternative control plan" as indicated by the Major Source RACT rulemaking in R93-14, rather than complying with the otherwise applicable rule, and correct the vapor pressure equations; the amendments to Subpart F, Coating Operations, clarify the recordkeeping and reporting requirements; the amendments to Subpart Q, Synthetic Organic Chemical and Polymer Manufacturing Plant, correct a publication date for a *Federal Register* referenced therein and correct minor typographical errors; the amendments in Subpart FF reflect the repeal of certain rules by the Illinois General Assembly; and the amendment in Appendix G corrects a typographical error.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
219.585(e)	Amend	19 Ill. Reg. 14276 (1st Proposed Notice October 13, 1995)
Appendix E	Amend	19 Ill. Reg. 14279 (1st Proposed Notice October 13, 1995)

10) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Send written comments concerning R96-13 within 45 days of publication in the *Illinois Register* to:

Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, IL 60601
(312) 814-6931

and

Christina L. Archer
Assistant Counsel
Illinois Environmental Protection Agency
Bureau of Air
P.O. Box 19276
Springfield, IL 62794-9276
(217) 524-3333

12) Initial Regulatory Flexibility Analysis: No small businesses will be affected to a greater extent that allowed by current statutes and regulations.

A) Types of small businesses, small municipalities and not for profit corporations affected: The proposal allows any business affected by an existing rule to propose an alternative to otherwise applicable requirements. Excluding this amendment, no new small businesses will be affected by the amendments. In addition, the amendments are either nonsubstantive or are minor corrections to existing rules. In general, the amendments are to rules that affect sources engaged in coating operations, synthetic organic chemical and polymer

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

manufacturing plants and bakeries.

B) Reporting, bookkeeping or other procedures required for compliance: There are no new recordkeeping requirements.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendment begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSIONS STANDARDS AND LIMITATIONS FOR STATIONARY SOURCES

PART 219
ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS FOR THE METRO EAST AREA

SUBPART A: GENERAL PROVISIONS

Section
219.100 Introduction
219.101 Savings Clause
219.102 Abbreviations and Conversion Factors
219.103 Applicability
219.104 Definitions
219.105 Test Methods and Procedures
219.106 Compliance Dates
219.107 Operation of Afterburners
219.108 Exemptions, Variations, and Alternative Means of Control or Compliance Determinations
219.109 Vapor Pressure of Volatile Organic Liquids
219.110 Vapor Pressure of Organic Material or Solvent ~~Solvents~~
219.111 Vapor Pressure of Volatile Organic Material
219.112 Incorporations by Reference
219.113 Monitoring for Negligibly-Reactive Compounds

SUBPART B: ORGANIC EMISSIONS FROM STORAGE AND LOADING OPERATIONS

Section
219.119 Applicability for VOL
219.120 Control Requirements for Storage Containers of VOL
219.121 Storage Containers of VPL
219.122 Loading Operations
219.123 Petroleum Liquid Storage Tanks
219.124 External Floating Roofs
219.125 Compliance Dates
219.126 Compliance Plan (Repealed)
219.127 Testing VOL Operations
219.128 Monitoring VOL Operations
219.129 Recordkeeping and Reporting for VOL Operations

SUBPART C: ORGANIC EMISSIONS FROM MISCELLANEOUS EQUIPMENT

Section
219.141 Separation Operations

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

219.142 Pumps and Compressors
219.143 Vapor Blowdown
219.144 Safety Relief Valves

SUBPART E: SOLVENT CLEANING

Section
219.181 Solvent Cleaning in General
219.182 Cold Cleaning
219.183 Open Top Vapor Degreasing
219.184 Conveyorized Degreasing
219.185 Compliance Schedule (Repealed)
219.186 Test Methods

SUBPART F: COATING OPERATIONS

Section
219.204 Emission Limitations
219.205 Daily-Weighted Average Limitations
219.206 Solids Basis Calculation
219.207 Alternative Emission Limitations
219.208 Exemptions From Emission Limitations
219.209 Exemption from General Rule on Use of Organic Material
219.210 Compliance Schedule
219.211 Recordkeeping and Reporting
219.212 Cross-Line Averaging to Establish Compliance for Coating Lines
219.213 Recordkeeping and Reporting for Cross-Line Averaging Participating Coating Lines
219.214 Changing Compliance Methods

SUBPART G: USE OF ORGANIC MATERIAL

Section
219.301 Use of Organic Material
219.302 Alternative Standard
219.303 Fuel Combustion Emission Units
219.304 Operations with Compliance Program

SUBPART H: PRINTING AND PUBLISHING

Section
219.401 Flexographic and Rotogravure Printing
219.402 Applicability
219.403 Compliance Schedule
219.404 Recordkeeping and Reporting
219.405 Lithographic Printing: Applicability
219.406 Provisions Applying to Heatset Web Offset Lithographic Printing Prior to March 15, 1996

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

219.407 Emission Limitations and Control Requirements for Lithographic Printing Lines On and After March 15, 1996
219.408 Compliance Schedule for Lithographic Printing on and After March 15, 1996
219.409 Testing for Lithographic Printing On and After March 15, 1996
219.410 Monitoring Requirements for Lithographic Printing
219.411 Recordkeeping and Reporting for Lithographic Printing

SUBPART Q: SYNTHETIC ORGANIC CHEMICAL AND POLYMER MANUFACTURING PLANT

Section
219.421 General Requirements
219.422 Inspection Program Plan for Leaks
219.423 Inspection Program for Leaks
219.424 Repairing Leaks
219.425 Recordkeeping for Leaks
219.426 Report for Leaks
219.427 Alternative Program for Leaks
219.428 Open-Ended Valves
219.429 Standards for Control Devices
219.430 Compliance Date (Repealed)
219.431 Applicability
219.432 Control Requirements
219.433 Performance and Testing Requirements
219.434 Monitoring Requirements
219.435 Recordkeeping and Reporting Requirements
219.436 Compliance Date

SUBPART R: PETROLEUM REFINING AND RELATED INDUSTRIES; ASPHALT MATERIALS

Section
219.441 Petroleum Refinery Waste Gas Disposal
219.442 Vacuum Producing Systems
219.443 Wastewater (Oil/Water) Separator
219.444 Process Unit Turnarounds
219.445 Leaks: General Requirements
219.446 Monitoring Program Plan for Leaks
219.447 Monitoring Program for Leaks
219.448 Recordkeeping for Leaks
219.449 Reporting for Leaks
219.450 Alternative Program for Leaks
219.451 Sealing Device Requirements
219.452 Compliance Schedule for Leaks
219.453 Compliance Dates (Repealed)

SUBPART S: RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section
219.461 Manufacture of Pneumatic Rubber Tires
219.462 Green Tire Spraying Operations
219.463 Alternative Emission Reduction Systems
219.464 Emission Testing
219.465 Compliance Dates (Repealed)
219.466 Compliance Plan (Repealed)

SUBPART T: PHARMACEUTICAL MANUFACTURING

Section
219.480 Applicability
219.481 Control of Reactors, Distillation Units, Crystallizers, Centrifuges and Vacuum Dryers
219.482 Control of Air Dryers, Production Equipment Exhaust Systems and Filters
219.483 Material Storage and Transfer
219.484 In-Process Tanks
219.485 Leaks
219.486 Other Emission Units
219.487 Testing
219.488 Monitoring for Air Pollution Control Equipment
219.489 Recordkeeping for Air Pollution Control Equipment

SUBPART V: BATCH OPERATIONS AND AIR OXIDATION PROCESSES

Section
219.500 Applicability for Batch Operations
219.501 Control Requirements for Batch Operations
219.502 Determination of Uncontrolled Total Annual Mass Emissions and Actual Weighted Average Flow Rate Values for Batch Operations
219.503 Performance and Testing Requirements for Batch Operations
219.504 Monitoring Requirements for Batch Operations
219.505 Reporting and Recordkeeping for Batch Operations
219.506 Compliance Date
219.520 Emission Limitations for Air Oxidation Processes
219.521 Definitions (Repealed)
219.522 Savings Clause
219.523 Compliance
219.524 Determination of Applicability
219.525 Emission Limitations for Air Oxidation Processes (Renumbered)
219.526 Testing and Monitoring
219.527 Compliance Date (Repealed)

SUBPART W: AGRICULTURE

Section
219.541 Pesticide Exception

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

SUBPART X: CONSTRUCTION

Section
219.561 Architectural Coatings
219.562 Paving Operations
219.563 Cutback Asphalt

SUBPART Y: GASOLINE DISTRIBUTION

Section
219.581 Bulk Gasoline Plants
219.582 Bulk Gasoline Terminals
219.583 Gasoline Dispensing Operations - Storage Tank Filling Operations
219.584 Gasoline Delivery Vessels
219.585 Gasoline Volatility Standards
219.586 Gasoline Dispensing Operations - Motor Vehicle Fueling Operations (Repealed)

SUBPART Z: DRY CLEANERS

Section
219.601 Perchloroethylene Dry Cleaners
219.602 Exemptions
219.603 Leaks
219.604 Compliance Dates (Repealed)
219.605 Compliance Plan (Repealed)
219.606 Exception to Compliance Plan (Repealed)
219.607 Standards for Petroleum Solvent Dry Cleaners
219.608 Operating Practices for Petroleum Solvent Dry Cleaners
219.609 Program for Inspection and Repair of Leaks
219.610 Testing and Monitoring
219.611 Exemption for Petroleum Solvent Dry Cleaners
219.612 Compliance Dates (Repealed)
219.613 Compliance Plan (Repealed)

SUBPART AA: PAINT AND INK MANUFACTURING

Section
219.620 Applicability
219.621 Exemption for Waterbase Material and Heatset- Offset Ink
219.623 Permit Conditions
219.624 Open-Top Mills, Tanks, Vats or Vessels
219.625 Grinding Mills
219.626 Storage Tanks
219.628 Leaks
219.630 Clean Up
219.636 Compliance Schedule
219.637 Recordkeeping and Reporting

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

SUBPART BB: POLYSTYRENE PLANTS

Section
219.640 Applicability
219.642 Emissions Limitation at Polystyrene Plants
219.644 Emissions Testing

SUBPART FF: BAKERY OVENS (Repealed)

Section
219.720 Applicability (Repealed)
219.722 Control Requirements (Repealed)
219.726 Testing (Repealed)
219.727 Monitoring (Repealed)
219.728 Recordkeeping and Reporting (Repealed)
219.729 Compliance Date (Repealed)
219.730 Certification (Repealed)

SUBPART GG: MARINE TERMINALS

Section
219.760 Applicability
219.762 Control Requirements
219.764 Compliance Certification
219.766 Leaks
219.768 Testing and Monitoring
219.770 Recordkeeping and Reporting

SUBPART HH: MOTOR VEHICLE REFINISHING

Section
219.780 Emission Limitations
219.782 Alternative Control Requirements
219.784 Equipment Specifications
219.786 Surface Preparation Materials
219.787 Work Practices
219.788 Testing
219.789 Monitoring and Recordkeeping for Control Devices
219.790 General Recordkeeping and Reporting
219.791 Compliance Date
219.792 Registration
219.875 Applicability of Subpart BB (Renumbered)
219.877 Emissions Limitation at Polystyrene Plants (Renumbered)
219.879 Compliance Date (Repealed)
219.881 Compliance Plan (Repealed)
219.883 Special Requirements for Compliance Plan (Repealed)
219.886 Emissions Testing (Renumbered)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

SUBPART PP: MISCELLANEOUS FABRICATED PRODUCT MANUFACTURING PROCESSES

Section
219.920 Applicability
219.923 Permit Conditions
219.926 Control Requirements
219.927 Compliance Schedule
219.928 Testing

SUBPART QQ: MISCELLANEOUS FORMULATION MANUFACTURING PROCESSES

Section
219.940 Applicability
219.943 Permit Conditions
219.946 Control Requirements
219.947 Compliance Schedule
219.948 Testing

SUBPART RR: MISCELLANEOUS ORGANIC CHEMICAL MANUFACTURING PROCESSES

Section
219.960 Applicability
219.963 Permit Conditions
219.966 Control Requirements
219.967 Compliance Schedule
219.968 Testing

SUBPART TT: OTHER EMISSION UNITS

Section
219.980 Applicability
219.983 Permit Conditions
219.986 Control Requirements
219.987 Compliance Schedule
219.988 Testing

SUBPART UU: RECORDKEEPING AND REPORTING

Section
219.990 Exempt Emission Units
219.991 Subject Emission Units

APPENDIX A List of Chemicals Defining Synthetic Organic Chemical and Polymer Manufacturing
APPENDIX B VOM Measurement Techniques for Capture Efficiency
APPENDIX C Reference Methods and Procedures
APPENDIX D Coefficients for the Total Resource Effectiveness Index (TRE) Equation

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

APPENDIX E List of Affected Marine Terminals
APPENDIX G TRE Index Measurements for SOCMI Reactors and Distillation Units
APPENDIX H Baseline VOM Content Limitations for Subpart F, Section 219.212 Cross-Line Averaging

AUTHORITY: Implementing Section 10 and authorized by Section 28.5 of the Environmental Protection Act [415 ILCS 5/10 and 28.5].

SOURCE: Adopted in R91-8 at 15 Ill. Reg. 12491, effective August 16, 1991; amended in R91-24 at 16 Ill. Reg. 13597, effective August 24, 1992; amended in R91-30 at 16 Ill. Reg. 13883, effective August 24, 1992; emergency amendment in R93-12 at 17 Ill. Reg. 8295, effective May 24, 1993, for a maximum of 150 days; amended in R93-9 at 17 Ill. Reg. 16918, effective September 27, 1993 and October 21, 1993; amended in R93-28 at 18 Ill. Reg. 4242, effective March 3, 1994; amended in R94-12 at 18 Ill. Reg. 14987, effective September 21, 1994; amended in R94-15 at 18 Ill. Reg. 16415, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16980, effective November 15, 1994; emergency amendment in R95-10 at 19 Ill. Reg. 3059, effective February 28, 1995, for a maximum of 150 days; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6958, effective May 29, 1995; amended in R94-33 at 19 Ill. Reg. 7385, effective May 22, 1995; amended in R96-13 at 20 Ill. Reg. _____, effective _____.

BOARD NOTE: This Part implements the Illinois Environmental Protection Act as of July 1, 1994.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses, subscript are denoted by brackets, and SUM means the summation series or sigma function as used in mathematics.

SUBPART A: GENERAL PROVISIONS

Section 219.108 Exemptions, Variations, and Alternative Means of Control or Compliance Determinations

Notwithstanding the provisions of any other Sections of this Part:

a) Any ~~any~~ exemptions, variations or alternatives to the control requirements, emission limitations, or test methods set forth in this Part shall be effective only when approved by the Agency and approved by the USEPA as a SIP revision.

b) Any equivalent alternative control plans, equivalent device, or other equivalent practice authorized by the Agency where this Part provides for such alternative or equivalent practice or equivalent variations or alterations to test methods approved by the Agency shall be effective only when included in a federally enforceable permit or approved as a SIP revision.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 219.110 Vapor Pressure of Organic Material or Solvent

a) If the organic material or solvent consists of only a single compound, the vapor pressure shall be determined by ASTM Method D2879-86 (incorporated by reference in Section 219.112 of this Part) or the vapor pressure may be obtained from a publication such as: Boublik, T., V. Fried and E. Hala, "The Vapor Pressure of Pure Substances," Elsevier Scientific Publishing Co., New York (1973); Perry's Chemical Engineer's Handbook, McGraw-Hill Book Company (1984); CRC Handbook of Chemistry and Physics, Chemical Rubber Publishing Company (1986-87); and Lange's Handbook of Chemistry, John A. Dean, editor, McGraw-Hill Book Company (1985).

b) If the organic material or solvent is in a mixture made up of both organic material compounds and compounds which are not organic material, the vapor pressure shall be determined by the following equation:

$$P[om] = \frac{\sum_{i=1}^{n} P[i]X[i]}{\sum_{i=1}^{n} X[i]}$$

where:

P[om] = Total vapor pressure of the portion of the mixture which is composed of organic material;

n = Number of organic material components in the mixture;

i = Subscript denoting an individual component;

P[i] = Vapor pressure of an organic material component determined in accordance with subsection (a) of this Section;

X[i] = Mole fraction of the organic material component of the total organic mixture.

c) If the organic material or solvent is in a mixture made up only organic material compounds, the vapor pressure shall be determined by ASTM Method D2879-86 (incorporated by reference in Section 219.112 of this Part) or by the above equation.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 219.111 Vapor Pressure of Volatile Organic Material

a) If the VOM consists of only a single compound, the vapor pressure shall be determined by ASTM Method D2879-86 (incorporated by reference in Section 219.112 of this Part) or the vapor pressure may be obtained from a publication such as: Boublik, T., B. Fried and E. Hala, "The Vapor Pressure of Pure Substances," Elsevier Scientific Publishing Co., New York (1973); Perry's Chemical Engineer's Handbook, McGraw-Hill Book Company (1984); CRC Handbook of Chemistry and Physics, Chemical Rubber Publishing Company (1986-87); and Lange's Handbook of Chemistry, John A. Dean, editor, McGraw-Hill Book Company (1985).

b) If the VOM is in a mixture made up of both VOM compounds and compounds which are not VOM, the vapor pressure shall be determined by the following equation:

$$P[vom] = \frac{\sum_{i=1}^{n} P[i]X[i]}{\sum_{i=1}^{n} X[i]}$$

where:

P[vom] = Total vapor pressure of the portion of the mixture which is composed of VOM;

n = Number of VOM components in the mixture;

i = Subscript denoting an individual component;

P[i] = Vapor pressure of a VOM component determined in accordance with subsection (a) of this Section;

X[i] = Mole fraction of the VOM component of the total organic mixture.

c) If the VOM is in a mixture made up on only VOM compounds, the vapor pressure shall be determined by ASTM Method D2879-86 (incorporated by reference in Section 219.112 of this Part) or by the above equation.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART F: COATING OPERATIONS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section 219.208 Exemptions From Emission Limitations

a) Exemptions for all coating categories except wood furniture coating. The limitations of this Subpart shall not apply to coating lines within a source, that otherwise would be subject to the same subsection of Section 219.204 (because they belong to the same coating category, e.g., can coating), provided that combined actual emissions of VOM from all lines at the source subject to that subsection never exceed 6.8 kg/day (15 lbs/day) before the application of capture systems and control devices. (For example, can coating lines within a source would not be subject to the limitations of Section 219.204(b) of this Subpart if the combined actual emissions of VOM from the can coating lines never exceed 6.8 kg/day (15 lbs/day) before the application of capture systems and control devices.) Volatile organic material emissions from heavy off-highway vehicle products coating lines must be combined with VOM emissions from miscellaneous metal parts and products coating lines to determine applicability. Any owner or operator of a coating source shall comply with the applicable coating analysis test methods and procedures specified in Section 219.105(a) of this Part and the recordkeeping and reporting requirements specified in Section 219.211(a) of this Subpart if total VOM emissions from the subject coating lines are always less than or equal to 6.8 kg/day (15 lbs/day) before the application of capture systems and control devices and, therefore, are not subject to the limitations of Section 219.204 of this Subpart. Once a category of coating lines at a source is subject to the limitations in Section 219.204 of this Part the coating lines are always subject to the limitations in Section 219.204 of this Subpart.

b) Applicability for wood furniture coating

1) The limitations of this Subpart shall apply to a source's wood furniture coating lines if the source contains process emission units, not regulated by Subparts B, E, F (excluding Section 219.204(l) of this Subpart), H (excluding Section 219.405 of this Part), Q, R, S, T (excluding Section 219.486 of this Part), V, X, Y, Z or BB of this Part, which as a group both:

A) Have a maximum theoretical emissions of 91 Mg (100 tons) or more per calendar year of VOM if no air pollution control equipment were used, and

B) Are not limited to less than 91 Mg (100 tons) of VOM per calendar year if no air pollution control equipment were used, through production or capacity limitations contained in a federally enforceable permit or SIP revision.

2) The limitations of this Subpart shall apply to a source's wood furniture coating lines, on and after March 15, 1996, if the source contains process emission units, which as a group, have a potential to emit 22.7 Mg (25 tons) or more of VOM per calendar year and have not limited emissions to less than 22.7 Mg (25 tons) of VOM per calendar year through production or capacity

limitations contained in a federally enforceable operating permit or as a SIP revision, and which:

A) Are not regulated by Subparts B, E, F (excluding Section 219.204(l) of this Subpart), H, Q, R, S, T (excluding Section 219.486 of this Part), V, X, Y, Z or BB of this Part; and

B) Are not included in any of the following categories: synthetic organic chemical manufacturing industry (SOCMI) distillation, SOCMI reactors, plastic parts coating (business machines), plastic parts coating (other), offset lithograpy, industrial wastewater, autobody refinishing, SOCMI batch processing, volatile organic liquid storage tanks and clean-up solvents operations.

3) If a source ceases to fulfill the criteria of subsections (b)(1) or (b)(2) of this Section, the limitations of Section 219.204(l) of this Subpart shall continue to apply to any wood furniture coating line which was ever subject to the limitations of Section 219.204(l) of this Subpart.

4) For the purposes of subsection (b) of this Section, an emission unit shall be considered to be regulated by a Subpart if it is subject to the limitations of that Subpart. An emission unit is not considered regulated by a Subpart if it is not subject to the limits of that Subpart, e.g., the emission unit is covered by an exemption in the Subpart or the applicability criteria of the Subpart are not met.

5) Any owner or operator of a wood furniture coating line to which the limitations of this Subpart are not applicable due to the criteria in subsection (b) of this Section shall, upon request by the Agency or the USEPA, submit records to the Agency and the USEPA within 30 calendar days from the date of the request that document that the coating line is exempt from the limitations of this Subpart.

c) On and after March 15, 1996, the limitations of this Subpart shall not apply to touch-up and repair coatings used by a coating source described by subsections 219.204(b), (d), (f), (g), (i), (j), (m) and (n) of this Subpart; provided that the source-wide volume of such coatings used does not exceed 0.95 l (1 quart) per eight-hour period or exceed 209 l/yr (55 gal/yr) for any rolling twelve month period. Recordkeeping and reporting for touch-up and repair coatings shall be consistent with subsection (d) of this Section ~~Section 219.211(b)(4) of this Subpart~~.

d) On and after March 15, 1996, the owner or operator of a coating line or a group of coating lines using touch-up and repair coatings that are exempted from the limitations of Section 219.204(b), (d), (f), (g), (i), (j), (m) and (n) of this Subpart because of the provisions of Section 219.208(c) of this Subpart shall:

1) Collect and record the name, identification number, and volume used of each touch-up and repair coating, as applied on each coating line, per eight-hour period and per month;

2) Perform calculations on a daily basis, and maintain at the source records of such calculations of the combined volume of touch-up and repair coatings used source-wide for each eight-hour period;

3) Perform calculations on a monthly basis, and maintain at the source records of such calculations of the combined volume of touch-up and repair coatings used source-wide for the month and the rolling twelve month period;

4) Prepare and maintain at the source an annual summary of the information required to be compiled pursuant to subsections (d)(1) and (d)(2) ~~(c)(4)(A) and (c)(4)(B)~~ of this Section on or before January 31 of the following year;

5) Maintain at the source for a minimum period of three years all records required to be kept under this subsection and make such records available to the Agency upon request;

6) Notify the Agency in writing if the use of touch-up and repair coatings at the source ever exceeds a volume of 0.95 l (1 quart) per eight-hour period or exceeds 209 l/yr (55 gal/yr) for any rolling twelve month period within 30 days after any such exceedance. Such notification shall include a copy of any records of such exceedance; and

7) "Touch-up and repair coatings" means, for purposes of 35 Ill. Adm. Code 219.208, any coating used to cover minor scratches and nicks that occur during manufacturing and assembly processes.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART Q: SYNTHETIC ORGANIC CHEMICAL AND POLYMER MANUFACTURING PLANT

Section 219.431 Applicability

a) The provisions of Sections 219.431 through 219.436 of this Subpart shall apply to every owner or operator of any chemical manufacturing process unit that manufactures, as a primary product, one or more of the chemicals listed in Appendix A of this Part and that chemical manufacturing process unit causes or allows any reactor or distillation unit, either individually or in tandem, to discharge one or more process vent streams either directly to the atmosphere or to a recovery system.

b) Notwithstanding subsection (a) of this Section, the control requirements set forth within Section 219.432 of this Subpart shall not apply to the following:

1) Any process vent stream with a total resource effectiveness (TRE) index value greater than 1.0. However, such process vent stream remains subject to the performance testing requirements contained in Section 219.433 of this Subpart and the reporting and recordkeeping requirements contained in Section 219.435 of this

Subpart;

2) Any reactor or distillation unit that is designed and operated as a batch operation;

3) Any reactor or distillation unit that is part of a polymer manufacturing operation;

4) Any reactor or distillation unit that is part of the chemical manufacturing process unit with a total design capacity of less than 1 gigagram (1,100 tons) per year for all chemicals produced, as a primary product, within that process unit. However, such operations remain subject to the reporting and recordkeeping requirements contained in Section 219.435(d) of this Subpart; ~~or~~

5) Any vent stream with a flow rate less than 0.0085 scm/min or a total VOM concentration, less methane and ethane, of less than 500 ppmv as measured by Method 18, or a concentration of VOM of less than 250 ppmv as measured by Method 25A. However, such operations remain subject to the performance testing requirement listed in Section 219.433 of this Subpart, as well as the reporting and recordkeeping requirements contained in Section 219.435 of this Subpart; or ~~.~~

6) Any reactor or distillation unit included within an Early Reduction Program, as specified in 40 CFR 63, and published in 57 Fed. Reg. 61970 (December 29, 1992) ~~(October 27, 1993)~~, evidenced by a timely enforceable commitment approved by USEPA.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 219.434 Monitoring Requirements

a) The owner or operator of a source subject to the control requirements in Section 219.432 of this Subpart that uses an incinerator to comply with the VOM emission limitation specified in Section 219.432(a)(1) shall install, calibrate, maintain, and operate, according to manufacturer's specifications, a temperature monitoring device equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature measured expressed in degress Celsius, or ±0.5° C, whichever is greater.

1) Where an incinerator other than a catalytic incinerator is used, a temperature monitoring device shall be installed in the firebox.

2) Where a catalytic incinerator is used, temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

b) The owner or operator of a source that uses a flare to comply with Section 219.432(a)(2) of this Subpart shall install, calibrate, maintain, and operate, according to manufacturer's specifications, a heat-sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light to indicate continuous presence of a

flame.

c) The owner or operator of a source that uses a boiler or process heater with a design heat input capacity less than 44 megawatts to comply with Section 219.432(a)(1) of this Subpart shall install, calibrate, maintain, and operate, according to the manufacturer's specifications, a temperature monitoring device in the firebox. The monitoring device shall be equipped with a continuous recorder with an accuracy of ±1 percent of the temperature being measured expressed in degrees Celsius or ±0.5° C, whichever is greater. Any boiler or process heater in which all vent streams are introduced with primary fuel is exempt from this requirement.

d) The owner or operator of a process vent with a TRE index value of 4.0 or less that uses one or more product recovery devices shall install either an organic monitoring device equipped with a continuous recorder or the monitoring equipment specified in subsection ~~subsections~~ (d)(1), (d)(2), (d)(3), or (d)(4) of this Section, depending on the type of recovery device used. All monitoring equipment shall be installed, calibrated, and maintained according to the manufacturer's specifications.

1) Where an absorber is the final recovery device in the recovery system, a scrubbing liquid temperature monitoring device and a specific gravity monitoring device, each equipped with a continuous recorder, shall be used.

2) Where a condenser is the final recovery device in the recovery system, a condenser exit (product side) temperature monitoring device equipped with a continuous recorder and having an accuracy of ±1 percent of the temperature being monitored expressed in degrees Celsius or ±0.5° C, whichever is greater.

3) Where a carbon adsorber is the final recovery device in the recovery system, an integrating regeneration steam ~~stream~~ flow monitoring device having an accuracy of ±10 percent, capable of recording the total regeneration steam ~~stream~~ mass flow for each regeneration cycle; and a carbon bed temperature monitoring device having an accuracy of ±1 percent of the temperature being monitored expressed in degrees Celsius of ±0.5° C, capable of recording the carbon bed temperature after each regeneration and within 15 minutes of completing any cooling cycle.

4) Where a scrubber is used with an incinerator, boiler, or, in the case of halogenated vent streams, a process heater, the following monitoring equipment is required for the scrubber:

A) A pH monitoring device equipped with a continuous recorder to monitor the pH of the scrubber effluent; and

B) Flow meters equipped with a continuous recorder at the scrubber influent for liquid flow and the scrubber inlet for gas stream flow.

e) The owner or operator of a process vent using a vent system that contains bypass lines capable of diverting a vent stream away from the control device associated with a process vent shall comply with either

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

(e)(1) or (e)(2) of this Section. Equipment needed for safety purposes, including, but not limited to, pressure relief devices, are not subject to this subsection.

1) The owner or operator shall install, calibrate, maintain, and operate a flow indicator that provides a record of vent stream flow at least once every 15 minutes. The flow indicator shall be installed at the entrance to any bypass line that could divert the vent stream away from the control device to the atmosphere.

2) The owner or operator shall secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once every month to ensure that the valve is maintained in the closed position and the vent stream is not diverted through the bypass line.

f) The owner or operator of a process vent may monitor by an equivalent alternative means or parameters other than those listed in subsections (a) through (d) of this Section. Any equivalent alternative shall be approved by the Agency and USEPA, and contained in the source's operating permit as federally enforceable permit conditions.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 219.435 Recordkeeping and Reporting Requirements

a) Every owner or operator of a reactor or distillation unit with a TRE index value of 4.0 or less shall keep records, for a minimum of 3 years, of the following parameters measured during a performance test or TRE determination required under Section 219.433 of this Subpart, and required to be monitored under Section 219.434 of this Subpart.

1) Every owner or operator of a source that seeks to demonstrate compliance with Section 219.432(a)(1) of this Subpart through the use of either a thermal or catalytic incinerator shall maintain records of the following:

A) The average firebox temperature of the incinerator (or the average temperature upstream and downstream of the catalyst bed for a catalytic incinerator), measured at least every 15 minutes and averaged over the same time period of the performance testing; and

B) The percent reduction of VOM determined as specified in Section 219.433(c) of this Subpart achieved by the incinerator, or the concentration of VOM (ppmv, by compound) determined as specified in Section 219.433(c) of this Subpart at the outlet of the control device, on a dry basis, corrected to 3 percent oxygen.

2) Every owner or operator of a source that seeks to demonstrate compliance with Section 219.432(a)(1) of this Subpart through the use of a boiler or process heater shall maintain the records

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

described below. Any boiler or process heater in which all vent streams are introduced with primary fuel are exempt from these requirements.

A) A description of the location at which the vent stream is introduced into the boiler or process heater; and

B) The average combustion temperature of the boiler or process heater with a design heat input capacity of less than 44 megawatt measured at least every 15 minutes and averaged over the same time period of the performance testing.

3) Every owner or operator of a source that seeks to demonstrate compliance with Section 219.432(a)(2) of this Subpart through use of a smokeless flare, or flare design (i.e., steam-assisted, air-assisted, or nonassisted), shall maintain records of all visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the performance test, continuous records of the flare pilot flame monitoring, and records of all periods of operations during which the pilot flame is absent.

4) Every owner or operator of a source that seeks to demonstrate compliance with Section 219.432(b) of this Subpart shall maintain records of the following:

A) Where an absorber is the final recovery device in the recovery system, the exit specific gravity (or alternative parameter) which is a measure of the degree of absorbing liquid saturation, if approved by the Agency and USEPA, and average exit temperature of the absorbing liquid measured at least every 15 minutes and averaged over the same time period as the performance testing (both measured while the vent stream is normally routed and constituted);

B) Where a condenser is the final recovery device in the recovery system, the average exit (product side) temperature measured at least every 15 minutes and averaged over the same time period as the performance testing while the vent stream is normally routed and constituted;

C) Where a carbon adsorber is the final recovery device in the recovery system, the total steam ~~stream~~ mass or volumetric flow measured at least every 15 minutes and averaged over the same time period as the performance testing (full carbon bed cycle), the temperature of the carbon bed after regeneration (and within 15 minutes of completion of any cooling cycle(s)), and duration of the carbon bed steaming cycle (all measured while the vent stream is normally routed and constituted);

D) As an alternative to subsection (a)(4)(A), (a)(4)(B) or (a)(4)(C) of this Section, the concentration level or reading indicated by the organic monitoring device at the outlet of the absorber, condenser, or carbon absorber, measured at least every 15 minutes and averaged over the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

same time period as the performance testing (measured while the vent stream is normally routed and constituted); or

E) All measurements and calculations performed to determine the flow rate, VOM concentration, heating value, and TRE index value of the vent stream.

b) Every owner or operator of a reactor or distillation unit with a TRE index value of less than 4.0 shall be subject to the exceedance reporting requirements of the draft Enhanced Monitoring Guidelines as published at 58 Fed. Reg. 54648 (October 22, 1993).

c) Every owner or operator of a source seeking to comply with Section 219.432(b) of this Subpart shall maintain records of the following:

1) Any changes in production capacity, feedstock type, catalyst type, or of any replacement, removal, or addition of recovery equipment or reactors and distillation units; and

2) Any recalculation of the flow rate, VOM concentration, or TRE index value calculated according to subsection Section (c) of Appendix G of this Part.

d) Every owner or operator of a source claiming a design capacity of less than 1 gigagram (1,100 tons) per year, as contained in Section 219.431(b) of this Subpart, shall maintain records of the design capacity or any changes in equipment or operations that may affect the design capacity.

e) Every owner or operator of a source claiming a vent stream flow rate or vent stream concentration exemption level, as contained in Section 219.431(b)(5) of this Subpart, shall maintain records to indicate that the stream flow rate is less than 0.0085 scm/min or the vent stream concentration is less than 500 ppmv.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART FF: BAKERY OVENS (Repealed)

Section 219.720 Applicability (Repealed)

~~a) The provisions of this Subpart shall apply to every owner or operator of a source which operates a bakery oven, as defined at 35 Ill. Adm. Code 211.600, unless the source bakes products only for on-site human consumption or on-site retail sale.~~

~~b) Notwithstanding subsection (a) of this Section, a source is required to comply with the control requirements of this Subpart only if the source has the potential to emit 22.7 Mg (25 tons) or more of VOM per year, in the aggregate, from all emission units at the source, excluding:~~

~~1) Emission units regulated by Subparts B, E, F, H, Q, R, S, T (excluding Section 219.406 of this Part), V, X, Y, Z or BB of this Part; and~~

~~2) Emission units that are included in any of the following categories: synthetic organic chemical manufacturing industry (SOCMI) distillation, SOCMI reactors, wood furniture coating, plastic parts coating (business machines), plastic parts coating (other), offset lithography, industrial wastewater, autobody refinishing, SOCMI batch processing, volatile organic liquid storage tanks and clean up solvents operations.~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

~~c) Every owner or operator of a source which has limited its potential to emit below 22.7 Mg (25 tons) of VOM per year, as specified in subsection (b) of this Section, through federally enforceable permit conditions is not required to comply with this Subpart.~~

~~d) Every owner or operator of a bakery oven which is exempt from the control requirements of this Subpart because of the criteria in subsection (b) of this Section remains subject to the recordkeeping and reporting requirements of Section 219.720(b) of this Subpart and the certification requirements in Section 219.730(d) of this Subpart.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 219.722 Control Requirements (Repealed)

~~a) Every owner or operator of a source subject to the control requirements of this Subpart shall comply with the requirements of subsection (a)(1) or (a)(2) of this Section for each bakery oven with a rated heat input capacity of at least 2 mmbtu/hr or at least 586 kW:~~

~~1) Operate emission capture and control equipment which achieves an overall reduction in uncontrolled VOM emissions of at least 81 percent from each such bakery oven; or~~

~~2) Provide an equivalent alternative control plan for such bakery ovens at the source which has been approved by the Agency and USEPA through federally enforceable permit conditions or as a SIP revision.~~

~~b) An owner or operator of a source subject to the control requirements of this Subpart may elect to exempt from the control requirements in subsections (a)(1) or (a)(2) and (e)(1) or (e)(2) of this Section any bakery oven with actual VOM emissions less than or equal to 15 TPY, provided that the total actual VOM emissions from all such exempt bakery ovens never exceeds 25 TPY.~~

~~e) Notwithstanding the requirements in subsection (a) of this Section, until March 15, 1998 only, a source may elect to comply with the control requirements in subsection (e)(1) or (e)(2) of this Section, rather than the control requirements in subsection (a)(1) or (a)(2) of this Section, if all emission units at the source, in the aggregate, excluding emission units regulated by Subparts B, E, F, H (excluding Section 219.405 of this Subpart), Q, R, S, T (excluding Section 219.406 of this Subpart), V, X, Y, Z or BB of this Subpart, have maximum theoretical emissions of less than 90.7 Mg (100 tons) of VOM~~

per year or are limited to less than 90.7 Mg (100 tons) of VOM emissions per calendar year in the absence of air pollution control equipment through production or capacity limitations contained in federally enforceable permit conditions or in a SIP revision:

1) Operate emissions capture and control equipment which achieves an overall reduction in uncontrolled VOM emissions of at least 60 percent from each bakery oven with a rated heat input capacity of at least 2 mmbtu/hr or at least 506 KW; or

2) Provide an equivalent alternative control plan for such bakery ovens at the source which has been approved by the Agency and USEPA through federally enforceable permit conditions or as a SIP revision.

d) Any bakery oven that becomes subject to the requirements of this Subpart at any time shall remain subject to the requirements of this Subpart at all times thereafter.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 219.726 Testing (Repealed)

a) Upon request by the Agency, the owner or operator of a bakery oven shall, at its own expense, conduct such tests in accordance with the applicable test methods and procedures specified in Section 219.105(f) of this Part to demonstrate compliance with the control requirements of this Subpart and shall:

1) Notify the Agency 30 days prior to conducting such tests; and

2) Submit all test results to the Agency within 45 days after conducting such tests.

b) Nothing in this Section shall limit the authority of USEPA pursuant to the Clean Air Act (CAA) to require testing, or shall affect the authority of USEPA under Section 114 of the CAA (42 U.S.C. 7414 (1990)).

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 219.727 Monitoring (Repealed)

a) Every owner or operator of a bakery oven subject to the control requirements of this Subpart shall install and operate at all times a device to continuously monitor the following parameters for each type of control device as follows:

1) For catalytic oxidizers, the inlet and outlet temperatures of the oxidizer;

2) For regenerative oxidizers, the temperature in the combustion chamber; or

3) For thermal incinerators, the temperature in the combustion

chamber.

b) The owner or operator may monitor with an alternative method or monitor other parameters if approved by the Agency and USEPA through federally enforceable permit conditions or as a SIP revision.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 219.728 Recordkeeping and Reporting (Repealed)

a) Every owner or operator of a bakery oven shall maintain the following records for the most recent consecutive 3 year period for all bakery ovens subject to the control requirements of this Subpart. Such records shall be made available to the Agency immediately upon request.

1) Parameters for control devices as monitored pursuant to Section 219.727 of this Subpart;

2) Hrs/day of operation of each bakery oven;

3) Factors necessary to calculate VOM emissions for all bakery ovens including, but not limited to, type of dough used for each yeast leavened baked product, initial yeast percentage for each product, total fermentation time for each product, any additional percentage of yeast added, and the fermentation time of any additional yeast;

4) Calculated daily VOM emissions of each bakery oven expressed as lbs/day;

5) Total amount of each type of yeast leavened bread product produced by each bakery oven expressed as lbs/day.

b) Every owner or operator of a bakery oven which is exempt from the control requirements of this Subpart because of the criteria in Section 219.720(b) of this Subpart shall maintain records necessary to demonstrate that its potential to emit is less than 22.7 Mg (25 tons) of VOM per year, as specified in Section 219.720(b). Such records shall be maintained for the most recent consecutive 3 year period and shall be made available to the Agency immediately upon request.

c) Every owner or operator of a bakery oven which is exempt from the control requirements of this Subpart because of the criteria specified in Section 219.722(b) of this Subpart shall:

1) Maintain records necessary to demonstrate that the actual VOM emissions from exempt bakery ovens are less than or equal to 15 TPY for each bakery oven and less than or equal to 25 TPY from all exempt bakery ovens combined. Such records shall be maintained for the most recent consecutive 3 year period and shall be made available to the Agency immediately upon request; and

2) Notify the Agency in writing if the actual VOM emissions from an exempt bakery oven ever exceed 15 TPY or the actual VOM emissions from a combination of exempt bakery ovens ever exceed 25 TPY,

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

within 30 days after the exceedance occurs. Such notice shall include a copy of all records of the exceedance.

d) Every owner or operator of a bakery oven which is controlling emissions as provided in Section 219.722(e) of this Subpart until March 15, 1990, shall maintain records necessary to demonstrate that its maximum theoretical emissions as specified in Section 219.722(e) are less than 90.7 Mg (100 tons) of VOM per year. Such records shall be maintained for the most recent consecutive 3 year period and shall be made available to the Agency immediately upon request.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 219.729 Compliance Date (Repealed)

On and after March 15, 1996, upon initial startup or upon modification, every owner or operator of a source subject to this Subpart shall comply with the requirements of this Subpart.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 219.730 Certification (Repealed)

a) Every owner or operator of a source subject to the control requirements of this Subpart shall certify compliance with this Subpart on or before a date consistent with Section 219.729 of this Subpart.

b) If an owner or operator of a bakery oven subject to the control requirements of this Subpart changes the method of compliance, the owner or operator shall certify compliance with the requirements of this Subpart for the alternative method upon changing the method of compliance.

e) All certifications of compliance with this Subpart shall include the results of all tests and the calculations performed to demonstrate that each oven at the source is in compliance with, or is exempt from, the control requirements of this Subpart. The certification shall include the following:

1) The name and identification number of each oven and any associated capture and control device;

2) The maximum rated heat input of each oven;

3) A classification of each oven as either a "bakery oven" as defined in 35 Ill. Adm. Code 211.600 or an oven used exclusively to bake non yeast leavened products;

4) The capture and control efficiency of each bakery oven control device;

5) Test reports, calculations and other data necessary to demonstrate that the capture and control efficiency of each

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

bakery oven control device achieves an overall reduction in uncontrolled VOM emissions of at least 81 percent; and

6) The date each bakery oven control device was installed and operating.

d) On or before March 15, 1996, or upon initial startup, every owner or operator of a bakery oven which is exempt from the control requirements of this Subpart because of the criteria in Section 219.720(b) of this Subpart shall certify that its potential to emit is less than 22.7 Mg (25 tons) of VOM per year, as specified in Section 219.720(b).

e) On or before March 15, 1996, or upon initial startup, every owner or operator of a bakery oven which is exempt from the control requirements of this Subpart because of the criteria specified in Section 219.722(b) of this Subpart shall certify that actual VOM emissions from any individual exempt bakery oven never exceed 15 TPY and that VOM emissions from all exempt bakery ovens, in the aggregate, never exceed 25 TPY.

f) On or before March 15, 1996, or upon initial startup if prior to March 15, 1990, every owner or operator of a bakery oven which is controlling emissions as provided by Section 219.722(e) of this Subpart, shall certify that its maximum theoretical emissions as specified in Section 219.722(e) are less than 90.7 Mg (100 tons) of VOM per year.

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section 219.APPENDIX G TRE Index Measurements for SOCMI Reactors and Distillation Units

For purposes of Subpart Q, Sections 219.431 through 219.435, the following apply:

a) The following test methods shall be used to determine compliance with the total resource effectiveness ("TRE") index value:

1) Method 1 or 1A, incorporated by reference at Section 219.112 of this Part, as appropriate, for selection of the sampling site.

A) The sampling site for the vent stream molar composition determination and flow rate prescribed in subsections (a)(2) and (a)(3) of this Appendix shall be, except for the situations outlined in subsection (a)(1)(B), after the final recovery device, if a recovery system is present, prior to the inlet of any control device, and prior to any post-reactor or post-distillation unit introduction of halogenated compounds into the vent stream. No traverse site selection method is needed for vents smaller than 10 cm in diameter.

B) If any gas stream other than the reactor or distillation unit vent stream is normally conducted through the final recovery device:

i) The sampling site for vent stream flow rate and molar composition shall be prior to the final recovery device and prior to the point at which any nonreactor or nondistillation unit vent stream or stream from a nonaffected reactor or distillation unit is introduced. Method 18 incorporated by reference at Section 219.112 of this Part, shall be used to measure organic compound concentrations at this site.

ii) The efficiency of the final recovery device is determined by measuring the organic compound concentrations using Method 18, incorporated by reference at Section 219.112 of this Part, at the inlet to the final recovery device after the introduction of all vent streams and at the outlet of the final recovery device.

iii) The efficiency of the final recovery device determined according to subsection (a)(1)(B)(ii) of this Appendix shall be applied to the organic compound concentrations measured according to subsection (a)(1)(B)(i) of this Appendix to determine the concentrations of organic compounds from the final recovery device attributable to the reactor or distillation unit vent stream. The resulting organic compound concentrations are then used to perform the calculations outlined in subsection (a)(4) of this Appendix.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

2) The molar composition of the vent stream shall be determined as follows:

A) Method 18, incorporated by reference at Section 219.112 of this Part, to measure the concentration of organic compounds including those containing halogens;

B) ASTM D1946-77, incorporated by reference at Section 219.112 of this Part, to measure the concentration of carbon monoxide and hydrogen; and

C) Method 4, incorporated by reference at Section 219.112 of this Part, to measure the content of water vapor.

3) The volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D, incorporated by reference at Section 219.112 of this Part, as appropriate.

4) The emission rate of VOM (minus methane and ethane) (E[VOM]) in the vent stream shall be calculated using the following formula:

$$E[VOM] = K[2] \sum_{j=1}^{n} C[j]M[j] Q[s]$$

where:

E[VOM] = Emission rate of VOM (minus methane and ethane) in the sample, kg/hr.

K[2] = Constant, 2.494 x 10(-6) (1/ppmv)(g-mole/scm)(kg/g)(min/hr), where standard temperature for (g-mole/scm) is 20° C.

C[j] = Concentration of compound j, on a dry basis, in ppmv as measured by Method 18, incorporated by reference at Section 219.112 of this Part, as indicated in Section 219.433(c)(3) of this Part.

M[j] = Molecular weight of sample j, g/g-mole.

Q[s] = Vent stream flow rate (scm) at a temperature of 20° C.

5) The total vent stream concentration (by volume) of compounds containing halogens (ppmv, by compound) shall be summed from the individual concentrations of compounds containing halogens which were measured by Method 18, incorporated by reference at Section 219.112 of this Part.

6) The net heating value of the vent stream shall be calculated using the following:

$$H[T] = K[1] \sum_{j=1}^{n} C[j]H[j] (1-B[ws])$$

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

where:

H[T] = Net heating value of the sample (MJ/scm), where the net enthaply per mole of vent stream is based on combustion of 25° C and 760 mmHG, but the standard temperature for determining the volume corresponding to one mole is 20°C ~~25°C~~, as in the definition of Q[s] (vent stream flow rate).

K[1] = Constant, 1.740 x 10(-7) (ppmv)(-1) (g-mole/scm), (MJ/KCal), where standard temperature for (g-mole/scm) is 20° C.

B[ws] = Water vapor content of the vent stream, proportion by volume; except that if the vent stream passes through a final stream jet and is not condensed, it shall be assumed that B[ws] = 0.023 in order to correct to 2.3 percent moisture.

C[j] = Concentration on a dry basis of compound j in ppmv, as measured for all organic compounds by Method 18, incorporated by reference at Section 219.112 of this Part, and measured for hydrogen and carbon monoxide by using ASTM D1946-77, incorporated by reference at Section 219.112 of this Part.

H[j] = Net heat of combustion of compound j, kCal/g-mole, based on combustion at 25° C and 760 mmHG. The heats of combustion of vent stream components shall be determined using ASTM D2382-83, incorporated by reference at Section 219.112 of this Part, if published values are not available or cannot be calculated.

b)

1) The TRE index value of the vent shall be calculated using the following:

$$TRE = \frac{1}{E[VOM]}\left[a + b\,(Q[s]) + c\,(H[T]) + d\,(E[VOM])\right]$$

where:

TRE = TRE index value.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

E[VOM] = Hourly emission rate of VOM (kg/hr) as calculated in subsection (a)(4) of this Appendix.

Q[s] = Vent stream flow rate scm/min at a standard temperature of 20° C.

H[T] = Vent stream net heating value (MJ/scm), as calculated in subsection (a)(6) of this Appendix.

E[VOM] = Hourly emission rate of VOM (minus methane and ethane), (kg/hr) as calculated in subsection (a)(4) of this Appendix.

a,b, c,d = Value of coefficients presented below are:

Type of Stream	Control Device Basis	Value of Coefficients a	b	c	d
Nonhalogenated	Flare	2.129	0.183	-0.005	0.359
	Thermal incinerator zero (0) Percent heat Recovery	3.075	0.021	-0.037	0.018
	Thermal incinerator 70 Percent heat Recovery	3.803	0.032	-0.042	0.007
Halogenated	Thermal incinerator and scrubber	5.470	0.181	-0.040	0.004

2) Every owner or operator of a vent stream shall use the applicable coefficients identified for values a, b, c and d in subsection (b)(1) of this Appendix to calculate the TRE index value based on a flare, a thermal incinerator with zero percent heat recovery, and a thermal incinerator with 70 percent heat recovery, and shall select the lowest TRE index value.

3) Every owner or operator of a reactor or distillation unit with a halogenated vent stream, determined as any stream with a total concentration of halogen atoms contained in organic compounds of 200 ppmv or greater, shall use the applicable coefficients identified for values a, b, c and d in subsection (b)(1) of this Appendix to calculate the TRE index value based on a thermal

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

incinerator and scrubber.

c) Every owner or operator of a source seeking to comply with Section 219.432(b) of this Part shall recalculate the flow rate and VOM concentration for each affected vent stream whenever process changes are made. Examples of process changes include, but are not limited to, changes in production capacity, feedstock type, or catalyst type, or whenever there is replacement, removal, or addition of recovery equipment. The flow rate and VOM concentration shall be recalculated based on test data, or on best engineering estimates of the effects of the change to the recovery system.

d) Whenever a process change, as defined in Section 219.435(c) of this Subpart, yields a TRE index value of 1.0 or less, the owner or operator shall notify and submit a report to the Agency according to the requirements specified in Section 219.435(c) of this Subpart, within 180 calendar days after the process change and shall conduct a performance test according to the methods and procedures required by Section 219.433 of this Part.

e) For the purpose of demonstrating that a process vent stream has a VOM concentration below 500 ppmv, the following shall be used:

1) The sampling site shall be selected as specified in Section 219.433(c)(1) of this Part.

2) Method 18 or Method 25A of 40 CFR Part 60, Appendix A, incorporated by reference at Section 219.112 of this Part, shall be used to measure concentration; alternatively, any other method or data that has been validated according to the protocol in Method 301 of 40 CFR Part 63, Appendix A, incorporated by reference at Section 219.112 of this Part, may be used.

3) Where Method 18 is used, the following procedures shall be used to calculate ppmv concentration:

i) The minimum sampling time for each run shall be 1 hour in which either an integrated sample or four grab samples shall be taken. If grab sampling is used, then the samples shall be taken at approximately equal intervals in time, such as 15 minute intervals during the run.

ii) The concentration of VOM shall be calculated using Method 18 according to Section 219.433(c)(4) of this Part.

4) Where Method 25A is used, the following procedures shall be used to calculate ppmv VOM concentration:

i) Method 25A shall be used only if a single VOM is greater than 50 percent of total VOM, by volume, in the process vent stream.

ii) The vent stream composition may be determined by either process knowledge, test data collected using an appropriate Reference Method or a method of data collection validated according to the protocol in Method 301 of 40 CFR Part 63, Appendix A, incorporated by reference at Section 219.112 of

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

this Part. Examples of information that constitute process knowledge include calculations based on material balances, process stoichiometry, or previous test results provided the results are still relevant to the current process vent stream conditions.

iii) The VOM used as the calibration gas for Method 25A shall be the single VOM present at greater than 50 percent of the total VOM by volume.

iv) The span value for Method 25A shall be 50 ppmv.

v) Use of Method 25A is acceptable if the response from the high-level calibration gas is at least 20 times the standard deviation of the response from the zero calibration gas when the instrument is zeroed on the most sensitive scale.

vi) The concentration of VOM shall be corrected to 3 percent oxygen using the procedures and equation in Section 219.433(c)(3) of this Part.

5) The owner or operator shall demonstrate that the concentration of VOM, including methane and ethane, measured by Method 25A is below 250 ppmv to qualify for the low concentration exclusion in Section 219.431 of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Community Living Facilities Code

2) Code Citation: 77 Ill. Adm. Code 370

3) Section Numbers: Proposed Action:

370.715 New Section

4) Statutory Authority: Community Living Facilities Act [210 ILCS 35]

5) A Complete Description of the Subjects and Issues Involved: The rules in Part 370 establish requirements for the licensure of community living facilities. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 370.715 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," "direct care," and "personal care" as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care for residents. Facilities are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (l). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Facilities are not obligated to employ applicants who are granted waivers (subsection (k)). Requirements for retention of records are set forth in subsection (m).

The economic effect of this rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the Notice in the Illinois Register.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? No

9) Are there any other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not expand or create a State mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking:

Interested persons may present their comments concerning these rules by writing to:

Ms. Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217/782-6187)

Within 45 days after this issue of the Illinois Register.

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Community living facilities

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Facilities are required to retain on file for five years records of criminal records requests for all employees covered under P.A. 89-197.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 28, 1995

The full text of the Proposed Amendments is identical to the text of the emergency amendments that appear on page 459

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Hospice Programs

2) Code Citation: 77 Ill. Adm. Code 280

3) Section Numbers: Proposed Action:

280.101 Amendments

4) Statutory Authority: Hospice Program Licensing Act [210 ILCS 60]

5) A Complete Description of the Subjects and Issues Involved: The rules in Part 280 establish requirements for the licensure of Hospice Programs in Illinois. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 280.101 is being amended to include reference to requirements for home health aides and nursing assistants under 77 Ill. Adm. Code 245.72 and 77 Ill. Adm. Code 300.662. The home health aide and nursing assistant requirements implement the Health Care Worker Background Check Act and were adopted by emergency rulemaking effective January 1, 1996. Provisions are included for the Uniform Conviction Information Act (UCIA) criminal record checks for direct care employees who are not licensed under any other law; employment prohibition for individuals who have been convicted of certain crimes; waiver provisions; record-keeping requirements.

The economic effect of this rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the Notice in the *Illinois Register*.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? No

9) Are there any other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Register to:

Ms. Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Hospice programs

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Programs are required to retain on file for five years records of criminal records requests for all employees covered under P.A. 89-197 other than nurse aides.

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendments is identical to the emergency amendments that begin on page 470 .

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Hospital Licensing Requirements

2) Code Citation: 77 Ill. Adm. Code 250

3)

Section Numbers:	Proposed Action:
250.120	Amendments
250.150	Amendments
250.280	New Section
250.435	New Section

4) Statutory Authority: Hospital Licensing Act [210 ILCS 85]

5) A Complete Description of the Subjects and Issues Involved: The rules in Part 250 establish requirements for the licensure of hospitals in Illinois. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 250.120 is amended to implement P.A. 89-171, effective July 19, 1995, which amended the Hospital Licensing Act to allow a hospital located in a county with fewer than 3,000,000 inhabitants to apply for approval to conduct its operations from more than one location within the county under a single license. Requirements for obtaining such a license are set forth in the rules.

Section 250.150 is amended to add definitions of "federally designated organ procurement agency" and "tissue bank" in accordance with P.A. 89-393, effective August 20, 1995, which requires each licensed hospital to have an agreement with its federally designated organ procurement agency providing for notification of the organ procurement agency when potential organ donors become available, as required in Section 2 of the Organ Donation Request Act. Citations are also updated.

Section 250.280 is being added in response to P.A. 89-393. The rule sets forth purposes for which a hospital shall provide access to medical records of deceased patients to its federally designated organ procurement agency and any tissue bank with which it has an agreement. A confidentiality provision is included, as well as a statement that any person who, in good faith, acts in accordance with the terms of the Act and the rules shall not be subject to any type of civil or criminal liability or discipline for unprofessional conduct for those actions.

Section 250.435 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), hospitals are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," and "direct care," and "personal care" as they apply to this Section, are included in subsection (c). Subsection (d) requires hospitals to initiate the Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the hospital makes a conditional offer of employment to an applicant for a position with duties that involve direct care for patients. Hospitals are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (l). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Hospitals are not obligated to employ applicants who are granted waivers (subsection (k)). Requirements for retention of records are set forth in subsection (m).

The economic effect of this rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the Notice in the *Illinois Register*.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? No

9) Are there any other Proposed Amendments Pending on this Part? Yes

Section Numbers	Proposed Action	Ill. Reg. Citation
250.1090	Amendments	19 Ill. Reg. 10407
250.1100	Amendments	19 Ill. Reg. 10407
250.1820	Amendments	19 Ill. Reg. 10407
250.1830	Amendments	19 Ill. Reg. 10407

10) Statement of Statewide Policy Objectives: This rulemaking will not create or expand a State mandate.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Ms. Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Hospitals

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Facilities are required to retain on file for five years records of criminal records requests for all employees covered under P.A. 89-197 except nurse aides.

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendments appears on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 250
HOSPITAL LICENSING REQUIREMENTS

SUBPART A: GENERAL

Section
250.110 Application for and Issuance of Permit to Establish a Hospital
250.120 Application for and Issuance of a License to Operate a Hospital
250.130 Administration by the Department
250.140 Hearings
250.150 Definitions
250.160 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION AND PLANNING

Section
250.210 The Governing Board
250.220 Accounting
250.230 Planning
250.240 Admission and Discharge
250.250 Visiting Rules
250.260 Patients' Rights
250.265 Language Assistance Services
250.270 Manuals of Procedure
250.280 Agreement with Designated Organ Procurement Agencies

SUBPART C: THE MEDICAL STAFF

Section
250.310 Organization
250.315 House Staff Members
250.320 Admission and Supervision of Patients
250.330 Orders for Medications and Treatments
250.340 Availability for Emergencies

SUBPART D: PERSONNEL SERVICE

Section
250.410 Organization
250.420 Personnel Records
250.430 Duty Assignments
250.435 Health Care Worker Background Check
250.440 Education Programs
250.450 Personnel Health Requirements

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

250.460 Benefits

SUBPART E: LABORATORY

Section
250.510 Laboratory Services
250.520 Blood and Blood Components
250.525 Designated Blood Donor Program
250.530 Proficiency Survey Program (Repealed)
250.540 Laboratory Personnel (Repealed)
250.550 Western Blot Assay Testing Procedures (Repealed)

SUBPART F: RADIOLOGICAL SERVICES

Section
250.610 General Diagnostic Procedures and Treatments
250.620 Radioactive Isotopes
250.630 General Policies and Procedures Manual

SUBPART G: GENERAL HOSPITAL EMERGENCY SERVICE

Section
250.710 Classification of Emergency Services
250.720 General Requirements
250.725 Notification of Emergency Personnel
250.730 Community or Areawide Planning
250.740 Disaster and Mass Casualty Program
250.750 Emergency Services for Sexual Assault Victims

SUBPART H: RESTORATIVE AND REHABILITATION SERVICES

Section
250.810 Applicability of Other Parts of These Requirements
250.820 General
250.830 Classifications of Restorative and Rehabilitation Services
250.840 General Requirements for all Classifications
250.850 Specific Requirements for Comprehensive Physical Rehabilitation Services
250.860 Medical Direction
250.870 Nursing Care
250.880 Additional Allied Health Services

SUBPART I: NURSING SERVICE AND ADMINISTRATION

Section
250.910 Nursing Services
250.920 Organizational Plan
250.930 Role in hospital planning

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

250.940 Job descriptions
250.950 Nursing committees
250.960 Specialized nursing services
250.970 Nursing Care Plans
250.980 Nursing Records and Reports
250.990 Unusual Incidents
250.1000 Meetings
250.1010 Education Programs
250.1020 Licensure
250.1030 Policies and Procedures
250.1040 Patient Care Units
250.1050 Equipment for Bedside Care
250.1060 Drug Services on Patient Unit
250.1070 Care of Patients
250.1080 Admission Procedures Affecting Care
250.1090 Sterilization and Processing of Supplies
250.1100 Infection Control

SUBPART J: SURGICAL AND RECOVERY ROOM SERVICES

Section
250.1210 Surgery
250.1220 Surgery Staff
250.1230 Policies & Procedures
250.1240 Surgical Privileges
250.1250 Surgical Emergency Care
250.1260 Operating Room Register
250.1270 Surgical Patients
250.1280 Equipment
250.1290 Safety
250.1300 Operating Room
250.1305 Visitors in Operating Room
250.1310 Cleaning of Operating Room
250.1320 Regulations for Postoperative Recovery Facilities

SUBPART K: ANESTHESIA SERVICES

Section
250.1410 Anesthesia Service

SUBPART L: RECORDS AND REPORTS

Section
250.1510 Medical Records
250.1520 Reports

SUBPART M: FOOD SERVICE

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section
250.1610 Dietary Department Administration
250.1620 Facilities
250.1630 Menus and Nutritional Adequacy
250.1640 Diet Orders
250.1650 Frequency of Meals
250.1660 Therapeutic (Modified) Diets
250.1670 Food Preparation and Service
250.1680 Sanitation

SUBPART N: HOUSEKEEPING AND LAUNDRY SERVICES

Section
250.1710 Housekeeping
250.1720 Garbage, Refuse and Solid Waste Handling and Disposal
250.1730 Insect and Rodent Control
250.1740 Laundry Service
250.1750 Soiled Linen
250.1760 Clean Linen

SUBPART O: MATERNITY AND NEONATAL SERVICE

Section
250.1810 Applicability of other Parts of these regulations
250.1820 Maternity and Neonatal Service Regulations (Perinatal Service)
250.1830 General Requirements for all Maternity Departments
250.1840 Discharge of Newborn Infants from Hospital
250.1850 Rooming-In Care of Mother and Infant
250.1860 Special Programs
250.1870 Single Room Maternity Care

SUBPART P: ENGINEERING AND MAINTENANCE OF THE PHYSICAL PLANT, SITE, EQUIPMENT, AND SYSTEMS--HEATING, COOLING, ELECTRICAL, VENTILATION, PLUMBING, WATER, SEWER, AND SOLID WASTE DISPOSAL

Section
250.1910 Maintenance
250.1920 Emergency electric service
250.1930 Water Supply
250.1940 Ventilation, Heating, Air Conditioning, and Air Changing Systems
250.1950 Grounds and Buildings Shall be Maintained
250.1960 Sewage, Garbage, Solid Waste Handling and Disposal
250.1970 Plumbing
250.1980 Fire and Safety

SUBPART Q: CHRONIC DISEASE HOSPITALS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section
250.2010 Definition
250.2020 Requirements

SUBPART R: PHARMACY OR DRUG AND MEDICINE SERVICE

Section
250.2110 Service Requirements
250.2120 Personnel Required
250.2130 Facilities for Services
250.2140 Pharmacy and Therapeutics Committee

SUBPART S: PSYCHIATRIC SERVICES

Section
250.2210 Applicability of other Parts of these Regulations
250.2220 Establishment of a Psychiatric Service
250.2230 The Medical Staff
250.2240 Nursing Service
250.2250 Allied Health Personnel
250.2260 Staff and Personnel Development and Training
250.2270 Admission, Transfer and Discharge Procedures
250.2280 Care of Patients
250.2290 Special Medical Record Requirements for Psychiatric Hospitals and Psychiatric Units of General Hospitals or General Hospitals Providing Psychiatric Care
250.2300 Diagnostic, Treatment and Physical Facilities and Services

SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

Section
250.2410 Applicability of these Standards
250.2420 Submission of Plans for New Construction, Alterations or Additions to Existing Facility
250.2430 Preparation of Drawings and Specifications -- Submission Requirements
250.2440 General Hospital Standards
250.2450 Details
250.2460 Finishes
250.2470 Structural
250.2480 Mechanical
250.2490 Plumbing and Other Piping Systems
250.2500 Electrical Requirements

SUBPART U: CONSTRUCTION STANDARDS FOR EXISTING HOSPITALS

Section
250.2610 Applicability of these Standards

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

250.2620 Codes and Standards
250.2630 Existing General Hospital Standards
250.2640 Details
250.2650 Finishes
250.2660 Mechanical
250.2670 Plumbing and Other Piping Systems
250.2680 Electrical Requirements

SUBPART V: SPECIAL CARE AND SPECIAL SERVICE UNITS

Section
250.2710 Special Care and/or Special Service Units
250.2720 Day Care for Mildly Ill Children

SUBPART W: ALCOHOLISM AND INTOXICATION TREATMENT SERVICES

Section
250.2810 Applicability of Other Parts of These Requirements
250.2820 Establishment of an Alcoholism and Intoxication Treatment Service
250.2830 Classification and Definitions of Service and Programs
250.2840 General Requirements for all Hospital Alcoholism Program Classifications
250.2850 The Medical and Professional Staff
250.2860 Medical Records
250.2870 Referral
250.2880 Client Legal and Human Rights

ILLUSTRATION A Seismic Zone Map
APPENDIX A Codes and Standards (Repealed)
EXHIBIT A Codes (Repealed)
EXHIBIT B Standards (Repealed)
EXHIBIT C Addresses of Sources (Repealed)
TABLE A Measurements Essential for Level I, II, III Hospitals
TABLE B Sound Transmission Limitations in General Hospitals
TABLE C Filter Efficiencies for Central Ventilation and Air Conditioning Systems in General Hospitals (Repealed)
TABLE D General Pressure Relationships and Ventilation of Certain Hospital Areas (Repealed)
TABLE E Piping Locations for Oxygen, Vacuum and Medical Compressed Air
TABLE F General Pressure Relationships and Ventilation of Certain Hospital Areas
TABLE G Insulation/Building Perimeter

AUTHORITY: Implementing and authorized by the Hospital Licensing Act [210 ILCS 85].

SOURCE: Rules repealed and new rules adopted August 27, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

150 days; amended at 2 Ill. Reg. 21, p. 49, effective May 16, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 45, p. 85, effective November 6, 1978; amended at 3 Ill. Reg. 17, p. 88, effective April 22, 1979; amended at 4 Ill. Reg. 22, p. 233, effective May 20, 1980; amended at 4 Ill. Reg. 25, p. 138, effective June 6, 1980; amended at 5 Ill. Reg. 507, effective December 29, 1980; amended at 6 Ill. Reg. 575, effective December 30, 1981; amended at 6 Ill. Reg. 1655, effective January 27, 1982; amended at 6 Ill. Reg. 3296, effective March 15, 1982; amended at 6 Ill. Reg. 7835 and 7838, effective June 17, 1982; amended at 7 Ill. Reg. 962, effective January 6, 1983; amended at 7 Ill. Reg. 5218 and 5221, effective April 4, 1983 and April 5, 1983; amended at 7 Ill. Reg. 6964, effective May 17, 1983; amended at 7 Ill. Reg. 8546, effective July 12, 1983; amended at 7 Ill. Reg. 9610, effective August 2, 1983; codified at 8 Ill. Reg. 19752; amended at 8 Ill. Reg. 24148, effective November 29, 1984; amended at 9 Ill. Reg. 4802, effective April 1, 1985; amended at 10 Ill. Reg. 11931, effective September 1, 1986; amended at 11 Ill. Reg. 10283, effective July 1, 1987; amended at 11 Ill. Reg. 10642, effective July 1, 1987; amended at 12 Ill. Reg. 15080, effective October 1, 1988; amended at 12 Ill. Reg. 16760, effective October 1, 1988; amended at 13 Ill. Reg. 13232, effective September 1, 1989; amended at 14 Ill. Reg. 2342, effective February 15, 1990; amended at 14 Ill. Reg. 13824, effective September 1, 1990; amended at 15 Ill. Reg. 5328, effective May 1, 1991; amended at 15 Ill. Reg. 13811, effective October 1, 1991; amended at 17 Ill. Reg. 1614, effective January 25, 1993; amended at 17 Ill. Reg. 17225, effective October 1, 1993; amended at 18 Ill. Reg. 11945, effective July 22, 1994; amended at 18 Ill. Reg. 15390, effective October 10, 1994; amended at 19 Ill. Reg. 13355, effective September 15, 1995; amended at 20 Ill. Reg. _____, effective _____.

Section 250.120 Application for and Issuance of a License to Operate a Hospital

a) ~~Applicant and Licensee.~~ The applicant or licensee is the "person" as defined in Section 3(B) of the Act who establishes, conducts, operates and maintains a hospital, or proposes to do so, and who is responsible for meeting licensing requirements.

b) ~~Hospitals to be licensed.~~ A license is required of all places that are hospitals within the meaning of the word as defined in Section 3 of the Act, providing that such place is not specifically excluded by the Act as follows:~~.~~

~~c) Places not to be licensed. The Act excludes the following:~~

1) *Any person or institution required to be licensed pursuant to the Nursing Home Care Act* ~~(Ill. Rev. Stat. 1991, ch. 111 1/2, par. 4151-101 et seq.)~~ [210 ILCS 45];

2) *Hospitalization or care facilities maintained by the State or any Department or agency thereof, where such Department or agency has authority under law to establish and enforce standards for the hospitalization or care facilities under its management and control;*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

3) *Hospitalization or care facilities maintained by the federal government or agencies thereof;*

4) *Hospitalization or care facilities maintained by any university or college established under the laws of this State and supported principally by public funds raised by taxation;*

5) *Any person or facility required to be licensed pursuant to the Alcoholism and Other Drug Dependency Act* ~~(Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 6351-1 et seq.~~ [20 ILCS 305]; or

6) *Any facility operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination.* (Section 3 of the Act)

c)~~d)~~ Application for License

1) The application for a license shall be made to the Department upon forms provided by it and shall contain such pertinent information as the Department requires for the administration of the Act.

2) Applications on behalf of a corporation or association or governmental unit or agency shall be made and verified by any two officers thereof.

3) No fee shall be charged.

d)~~e)~~ ~~Issuance and Renewal of License.~~ Licenses issued hereunder shall be valid for a period of one year. The renewal shall be made by the Department to those hospitals meeting licensing requirements as determined by an ongoing review of reports, surveys, and recommendations on file with the Department as related to the operation of the hospital.

e)~~f)~~ License not transferable; notification of change of licensee, location or name.

1) The license is not transferable. Each license is separate and distinct and shall be issued to a specific licensee for a specific location. The Department shall be notified prior to any change in licensee, name, or location of a hospital.

2) If the hospital's name is changed a new license certificate will be issued upon notification of the change.

3) Prior to changing the location of a hospital, the provisions of Section 250.110 and this Section shall be applicable.

4) A change in the legal identity of the licensee of a hospital constitutes the establishment of a new hospital and the provisions of Section 250.110 and this Section shall be applicable.

f)~~g)~~ License Category; Approval of Services.

1) Each license shall apply only to the categories of service offered by the hospital at the time the license is issued, and as reflected in the Certificate of Need (CON) ~~CON~~ or Certificate of Exemption (COE) ~~COE~~ issued by the Health Facilities Planning Board. A general ~~General~~ license shall be issued for a hospital that offers a variety of categories of service. A specialized

license (e.g., Psychiatric, Pediatric, Rehabilitation, Tuberculosis) shall be issued for a hospital that offers primarily that special category of service.

2) The license shall apply only to the number of beds and the clinical services operating at the time the license is issued. If a new clinical service is to be initiated, or an existing service expanded or discontinued, the approval of the Department must first be obtained. If a change in clinical service results in change of license category, then a new application for license shall be submitted and the provisions of Section 250.110 and this Section shall apply.

g)h) ~~Provisional License.~~ The Director may issue a provisional license to any hospital which does not substantially comply with the provisions of the Act and this Part provided that he finds that such hospital has undertaken changes and corrections which upon completion will render the hospital in substantial compliance with the provisions of the Act and this Part, and provided that the health and safety of the patients of the hospital will be protected during the period for which such provisional license is issued. The Director shall advise the licensee of the conditions under which such provisional license is issued, including the manner in which the hospital facilities fail to comply with the provisions of the Act and this Part, and the time within which the changes and corrections necessary for such hospital facilities to substantially comply with the Act and this Part shall be completed.

h)i) ~~Separate--Licenses.~~ The Department may require a hospital that houses patients in more than one building to have separate licenses for one or more such separate buildings.

i)j) ~~Posting--of--License.~~ The license shall be posted where it may readily be seen and read by the public.

j)k) ~~Notification of Closure of Hospital.~~ The licensee shall notify the Department of the impending closure of the hospital, at least 90 days prior to such closure. The hospital shall be responsible for the removal and replacement of patients. The hospital shall implement the policies for preservation of patient medical records and medical staff credentialing files in accordance with Section 250.1510(d)(2) and Section 250.310(a)(16).

k) *A hospital located in a county with fewer than 3,000,000 inhabitants may apply to the Department for approval to conduct its operations from more than one location within the county under a single license.*

1) *The facilities or buildings at those locations must be owned or operated together by a single corporation or other legal entity serving as the licensee and must share:*

A) *A single Board of Directors with responsibility for governance, including financial oversight and the authority to designate or remove the Chief Executive Officer;*

B) *A single medical staff accountable to the Board of Directors and governed by a single set of medical staff bylaws, rules,*

and regulations with responsibility for the quality of the medical services; and

C) *A single Chief Executive Officer, accountable to the Board of Directors, with management responsibility.*

2) *Each hospital building or facility that is located on a site geographically separate from the campus or premises of another hospital building or facility operated by the licensee must, at a minimum, individually comply with requirements* in this Part *for emergency services.*

3) *The hospital shall submit to the Department a comprehensive plan in relation to the waiver or waivers requested describing the services and operations of each facility or building and how common services or operations will be coordinated between the various locations. With the exception of* emergency services, *the Department* will consider waivers *for specific buildings or facilities, provided that the hospital has documented which other building or facility under its single license provides that service or operation, and that doing so would not endanger the public's health, safety, or welfare. Nothing in this Section relieves a hospital from the requirements of the Health Facilities Planning Act.* (Section 4.5 of the Act)

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 250.150 Definitions

The following terms shall have the meanings ascribed to them when ~~whenever such term is~~ used in this Part ~~these Regulations~~.

"Abnormal Slide - a slide": ~~One~~ not having the characteristics of healthy tissue.

"Act - the": ~~The~~ Hospital Licensing Act [210 ILCS 85] ~~[111. Rev. Stat. 1987, ch. 111 1/2, par. 142 et seq.]~~.

"Allied Health Personnel - ": ~~The term "allied health personnel" means and includes~~ persons other than medical staff members, licensed or registered by the State of Illinois ~~Department of Professional Regulation~~ or recognized by an organization acceptable to the Department and recognized to so function by the medical staff and the governing authority of the hospital.

"ASHRAE - the": ~~The~~ American Society of Heating, Refrigerating, and Air Conditioning Engineers.

"ASTM - the": ~~The~~ American Society for Testing and Materials.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

"CGA - the": The Compressed Gas Association.

"Control Materials - a": A sample in which the chemical composition and physical properties resemble the specimen to be analyzed on which sufficient analyses have been run to give a reasonably good approximation of the concentration of the constituent being assayed. The control materials are it is routinely analyzed along with patient specimens in order to determine the precision and accuracy of the analytical process used.

"Demonstration of proficiency - a" means the laboratory meeting meets the standards for acceptable proficiency testing as stated in Section 250.530 by means of on-site analysis of specimens sent to the laboratory by agencies approved by the Department for that purpose.

"Dentist - any": A person currently licensed to practice dentistry as provided in the in Illinois under the Illinois Dental Practice Act [225 ILCS 25] (Ill. Rev. Stat. 1987, ch. 111, par. 2301 et seq.).

"Department - ": The terms "Department" and "Department of Public Health" mean the Illinois Department of Public Health of the State of Illinois.

"Drugs - the": The term "drugs" means and includes:

- articles recognized in the official United States Pharmacopoeia, official National Formulary, or any supplement to any of them and being intended for and having for their main use the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;
- all other articles intended for and having for their main use the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;
- articles (other than food) having for their main use and intended to affect the structure or any function of the body of man or other animals; and
- articles having for their main use and intended for use as a component or any articles specified above but does not include devices or their components, parts or accessories.

Federally designated organ procurement agency - The organ procurement agency designated by the Secretary of the U.S. Department of Health and Human Services for the service area in which a hospital is located; except that in the case of a hospital located in a county adjacent to Wisconsin which currently contracts with an organ procurement agency located in Wisconsin that is not the organ procurement agency designated by the U.S. Secretary of Health and Human Services for the service area in which the hospital is located, if the hospital applies for a waiver pursuant to 42 USC 1320b-8(a), it

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

may designate an organ procurement agency located in Wisconsin to be thereafter deemed its federally designated organ procurement agency for the purposes of this Act. (Section 3 of the Act)

"Hospital - the": The term "hospital" shall have the meaning ascribed be as defined in Section 3 of the Act.

"Hospitalization - ": The term "hospitalization" means the reception and/or care of any person in any hospital either as an inpatient or as an outpatient.

"House Staff Member - an": An individual who is a graduate of a medical, dental, osteopathic, or podiatric school; who is licensed as appropriate; who is appointed to the hospital's medical, osteopathic, dental, or podiatric graduate training program, which is approved or recognized in accordance with the statutory requirements applicable to the practitioner; and who is participating in patient care under the direction of licensed practitioners who have clinical privileges in the hospital and are members of the hospital's medical staff.

"ICBO - the": The International Conference of Building Officials.

"Licensed Practical Nurse - ": The term "licensed practical nurse" means a person with a valid currently licensed as such by the Department of Professional Regulation of the State of Illinois license to practice as a practical nurse.

"Medical Staff - ": The term "medical staff" means an organized body composed of the following individuals granted the privilege by the governing authority of the hospital to practice in the hospital: persons who are graduates of a college or school approved or recognized by the Illinois Department of Professional Regulation and who are currently licensed by the Department of Professional Regulation to practice medicine in all its branches; practice dental surgery; or, practice podiatric medicine in Illinois, regardless of the title of the degree awarded by the approving college or school.

"Medicines - ": The term "medicines" means and includes drugs or chemicals or preparations thereof in suitable form intended for and having for their main use the prevention, treatment, relief, or cure of diseases in man or animals when used either internally or externally.

"NBS - the": The National Bureau of Standards.

"NCRP - the": The National Council on Radiation Protection.

"NFPA - the": The National Fire Protection Association.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

"Normal Slide - a slide": ~~One~~ having the characteristics of healthy tissue.

Nurse - a registered nurse or licensed practical nurse as defined in the Illinois Nursing Act of 1987 [225 ILCS 65].

"Nursing Staff - ": ~~The term "nursing staff" means and includes~~ registered nurses, licensed practical nurses, nursing aides, orderlies, and others rendering patient care under the supervision of a registered professional nurse.

"Patient Care Unit" (Nursing Care Unit) - ~~is~~ an organized unit in which nursing services are provided on a continuous basis. This unit ~~it~~ is a clearly defined administrative and geographic area to which specific nursing staff is assigned.

"Pharmacist - a": A person who holds a certificate of registration as a registered pharmacist ~~currently licensed to practice pharmacy in Illinois~~ under the Pharmacy Practice Act of 1987 [225 ILCS 85] ~~(Ill. Rev. Stat. 1987, ch. 111, par. 4121 et seq.)~~.

"Pharmacy - ": The term "Practice of Pharmacy" includes, but is not limited to:

- the soliciting of prescriptions;
- the compounding of prescriptions;
- the dispensing of any drug or medicine on a prescription;
- the transfer of any drug or medicine from one container into another container that ~~which other container~~ is to be delivered to or for the ultimate patient, on a prescription, or to or for the ultimate consumer, without a prescription; and
- the placing of directions for use or other required labeling information on a container of any drug or medicine which is to be delivered to or for the ultimate consumer, without a prescription.

The term "pharmacy" or "a drug store" as referred to in Section 3 of the Pharmacy Practice Act of 1987, means and includes that area licensed by the Department of Professional Regulation in which the practice of pharmacy is conducted. Any room or designated area where drugs and medicines are dispensed (including the repackaging for distribution to a nursing station or storage area) shall be considered to be a pharmacy and be licensed by the Department of Professional Regulation.

"PHCC - the": ~~The~~ National Association of Plumbing, Heating and Cooling Contractors.

"Physical Rehabilitation Facility - a": A licensed specialty hospital

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

or clearly defined special unit or program of an acute care hospital providing physical rehabilitation services as defined above either through the facility's own staff members or when appropriate, through the mechanism of formal affiliations and consultations.

"Physical Rehabilitation Services - a": A complete intensive multi-disciplinary process of individualized, time-limited, goal-oriented services, including evaluation, restoration, personal adjustment, and continuous medical care under the supervision and direction of a physician "qualified by training and/or experience in physical rehabilitation." Physical rehabilitation is made up of two major components; inpatient and outpatient care. Both components involve the patient and whenever possible, the family, in establishing treatment goals and discharge plans, and consists of the following scope of services available for inpatient care: physician, rehabilitation nursing, physical therapy, occupational therapy, speech therapy, audiology, prosthetic and orthotic services, as well as rehabilitation counseling, social services, recreational therapy, psychology, pastoral care, and vocational counseling. Basic scope of services for outpatient facilities should include at least a physician, physical therapy, occupational therapy, speech therapy, vocational services, psychology and social service. The purpose of such multi-faceted services is to reduce the disability and dependency in activities of daily living while promoting optimal personal adjustment in such dimensions as psychological, social, economic, spiritual and vocational.

"Physician - a": A person ~~currently~~ licensed to practice medicine in all its branches as provided in ~~in Illinois under~~ the Medical Practice Act of 1987 [225 ILCS 60] ~~(Ill. Rev. Stat. 1987, ch. 111, par. 4400 et seq.)~~.

"Physician's Assistant - a": A person authorized to practice under the Physician Assistant Practice Act of 1987 [225 ILCS 95] ~~(Ill. Rev. Stat. 1987, ch. 111, par. 4601 et seq.)~~. A Physician's Assistant is only authorized to practice upon the patients of his or her supervising physician.

"Podiatrist - a": A person ~~currently~~ licensed to practice podiatry ~~in Illinois~~ under the Podiatric Medical Practice Act of 1987 [225 ILCS 100] ~~(Ill. Rev. Stat. 1987, ch. 111, par. 4601 et seq.)~~.

"Reference Materials - a": A sample in which the chemical composition and physical properties resemble the specimen to be analyzed on which sufficient analyses have been run to give a reasonably good approximation of the concentration of the constituent being assayed. The reference materials are ~~it is~~ routinely analyzed along with patient specimens in order to determine the precision and accuracy of

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

the analytical process used.

"Registered Nurse" ~~--"The term "registered nurse" means~~ a person ~~currently registered as such by the Department of Professional Regulation of the State of~~ with a valid Illinois license to practice as a registered professional nurse under the Illinois Nursing Act of 1987.

"Standard Solution" ~~--A~~ solution used for calibration in which the concentration is determined solely by dissolving a weighted amount of primary standard material in an appropriate amount of solvent.

Tissue bank - any facility or program operating in Illinois that is certified by the American Association of Tissue Banks or the Eye Bank Association of America and is involved in procuring, furnishing, donating, or distributing corneas, bones, or other human tissue for the purpose of injecting, transfusing or transplanting any of them into the human body. "Tissue bank" does not include a licensed Blood Bank. For the purposes of this Act, "tissue" does not include organs. (Section 3 of the Act)

"UL" - Underwriters' Laboratories, Inc.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

SUBPART B: ADMINISTRATION AND PLANNING

Section 250.280 Agreement with Designated Organ Procurement Agencies

a) *Each hospital shall have an agreement with its federally designated organ procurement agency providing for notification of the organ procurement agency when potential organ donors become available, as required in Section 2 of the Organ Donation Request Act [755 ILCS 60].* (Section 6.16 of the Act)

b) *Each hospital shall provide its federally designated organ procurement agency and any tissue bank with which it has an agreement with access to the medical records of deceased patients for the following purposes:*
   1) *Estimating the hospital's organ and tissue donation potential;*
   2) *Identifying the educational needs of the hospital with respect to organ and tissue donation; and*
   3) *Identifying the number of organ and tissue donations and referrals to potential organ and tissue donors.* (Section 6.17 of the Act)

c) *All hospital and patient information, interviews, reports, statements, memoranda, and other data obtained or created by a tissue bank or federally designated organ procurement agency from the medical records*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

review in subsection (b) of this Section *shall be privileged, strictly confidential, and used only for the purpose put forth in subsection* (b) *of this* Section *and shall not be admissible as evidence nor discoverable in an action of any kind of court or before a tribunal, board, agency, or person.* (Section 6.17 of the Act)

d) *Any person who, in good faith, acts in accordance with the terms of this Section shall not be subject to any type of civil or criminal liability or discipline for unprofessional conduct for those actions.* (Section 6.17 of the Act)

(Source: Added at 20 Ill. Reg. _____, effective _____)

SUBPART D: PERSONNEL SERVICE

Section 250.435 Health Care Worker Background Check

a) The hospital shall not *knowingly hire any individual* after January 1, 1996 *in a position with duties involving direct care for patients* if that person *has been convicted of committing or attempting to commit one or more of* the following *offenses* (Section 25 of the Health Care Worker Background Check Act) [225 ILCS 46/25]:
   1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5])
   2) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961);
   3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961);
   4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961);
   5) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-15, and 12-16 of the Criminal Code of 1961);
   6) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961);
   7) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961);
   8) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1, and 19-3 of the Criminal Code of 1961);
   9) Criminal trespass (Section 19-4 of the Criminal Code of 1961);
   10) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961);
   11) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961);
   12) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, and 9]); or

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

13) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1]).

b) The hospital shall not *knowingly employ or retain any individual* after *January 1, 1997 in a position with duties involving direct care for patients* if that person *has been convicted of committing or attempting to commit one or more of the offenses* listed in subsections (a)(1)-(13) of this Section *unless the applicant, employee,* or employer *obtains a waiver pursuant to* subsections (i) and (j) of this Section. (Section 25 of the Health Care Worker Background Check Act)

c) For the purpose of this Section:

1) *"Applicant"* means *an individual seeking employment with a* hospital *who has received a bona fide conditional offer of employment.*

2) *"Conditional offer of employment"* means *a bona fide offer of employment by a* hospital *to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses* listed in subsections (a)(1)-(13) of this Section.

3) *"Direct Care"* means *the provision of nursing or personal care.*

4) *"Personal Care"* means *assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of a* resident. (Section 15 of the Health Care Worker Background Check Act)

d) *Beginning January 1, 1995* when the hospital *makes a conditional offer of employment to an applicant* who is not exempt under subsection (1) of this Section, *for a position with duties that involve direct care for patients,* the employer *must initiate a* Uniform Conviction Information Act (UCIA) *Criminal History Record Check for that applicant.* (Section 30 of the Health Care Worker Background Check Act)

e) *No later than January 1, 1997 a* hospital *must initiate a UCIA Criminal History Record Check for all employees* who were hired before January 1, 1996 who have not already had a UCIA Criminal History Record Check, and who are not exempt because of subsection (1) of this Section *with duties that involve direct care for patients.* (Section 30 of the Health Care Worker Background Check Act)

f) *The request for a UCIA Criminal History Record Check shall be* made as *prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint UCIA* Criminal History Record *search is made:*

1) *That the* hospital *shall request a UCIA Criminal History Record Check pursuant to* the Health Care Worker Background Check Act.

2) *That the applicant or employee has a right to obtain a copy of the Criminal Records Report, challenge the accuracy and completeness of the report, and request a waiver* in accordance

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

with subsection (i) of this Section.

3) *That the applicant, if hired conditionally, may be terminated if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's identity is validated and it is determined that the* applicant or employee *does not have a disqualifying Criminal History Record based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section.

4) *That the applicant, if not hired conditionally, shall not be hired if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's record is cleared based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section.

5) *That the employee may be terminated if the Criminal Records Report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's record is cleared based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section. (Section 30 of the Health Care Worker Background Check Act)

g) A hospital *may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA Criminal History Record Check.* (Section 30 of the Health Care Worker Background Check Act)

h) *An applicant or employee whose UCIA Criminal History Record Check indicates a conviction for committing or attempting to commit one or more of the offenses* listed in subsections (a)(1)-(13) of this Section *may request the* hospital to *commence a fingerprint-based UCIA Criminal Records Check by submitting information in a form and manner prescribed by the Department of State Police.* (Section 35 of the Health Care Worker Background Check Act)

i) *An applicant, employee* or employer *may request a waiver* to subsection (a) or (b) of this Section by submitting the following *within 30 days after the receipt of the Criminal Records Report:*

1) *Information necessary to initiate a fingerprint-based UCIA Criminal Records Check in a form and manner prescribed by the Department of State Police* (Section 40 of the Health Care Worker Background Check Act); and

2) A certified check or money order made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA Criminal Records Check.

j) The Department *may grant a waiver based on mitigating circumstances,*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

which may include:

1) *The age at which the crime was committed;*
2) *The circumstances surrounding the crime;*
3) *The length of time since the conviction;*
4) *The applicant's or employee's criminal history since the conviction;*
5) *The applicant's or employee's work history;*
6) *The applicant's or employee's current employment references;*
7) *The applicant's or employee's character references; and*
8) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of patients.* (Section 40 of the Health Care Worker Background Check Act)

k) A hospital *is not obligated to employ or offer permanent employment to an applicant, or retain an employee who is granted a waiver.* (Section 40(d) of the Health Care Worker Background Check Act)

l) This Section *shall not apply to:*

1) *An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law; or*
2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State.* (Section 20 of the Health Care Worker Background Check Act)

m) *The* hospital *shall retain on file for a period of 5 years records of criminal records requests for all employees, other than nurse aides. The file shall be subject to inspection by the* Department. *A fine of $500* shall *be imposed for failure to maintain these records.* (Section 50 of the Health Care Worker Background Check Act)

(Source: Added at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Home Health Agency Code

2) Code Citation: 77 Ill. Adm. Code 245

3)

Section Numbers:	Proposed Action:
245.72	New Section

4) Statutory Authority: Home Health Agency Licensing Act 210 ILCS 55

5) A Complete Description of the Subjects and Issues Involved: Section 245.72 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), agencies are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," "direct care," and "personal care," as they apply to this Section, are included in subsection (c). Subsection (d) requires agencies to initiate UCIA criminal history record checks, beginning January 1, 1996, when the agency makes a conditional offer of employment to an applicant for a position with duties that involve direct care for patients. Home health agencies are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (1). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests for fingerprint-based record checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Agencies are not obligated to employ applicants who are granted waivers (subsection (k)). Requirements for retention of records are set forth in subsection (m).

The economic effect of this rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the Notice in the *Illinois Register*.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? No

9) Are there any other Proposed Amendments Pending on this Part? Yes

Section Numbers	Proposed Action	Ill. Reg. Citation
245.20	Amendments	19 Ill. Reg. 11325
245.25	Amendments	19 Ill. Reg. 11325
245.30	Amendments	19 Ill. Reg. 11325
245.40	Amendments	19 Ill. Reg. 11325
245.50	Amendments	19 Ill. Reg. 11325
245.70	Amendments	19 Ill. Reg. 11325

10) Statement of Statewide Policy Objectives: This rulemaking will affect county health departments.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to: Ms. Gail M. DeVito Division of Governmental Affairs Illinois Department of Public Health 535 West Jefferson, Fifth Floor Springfield, IL 62761 (217) 782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Home health agencies

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Agencies are required to retain on file for five years records of criminal records requests for all employees covered under P.A. 89-197 other than nurse aides.

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

The full text of the Proposed Amendments is identical to the emergency amendments that begin on page 491 .

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Veterans' Homes Code

2) Code Citation: 77 Ill. Adm. Code 340

3) Section Numbers: Proposed Action:

340.1375	Amendments
340.1376	New Section
340.1377	New Section

4) Statutory Authority: Nursing Home Care Act 210 ILCS 45

5) A Complete Description of the Subjects and Issues Involved: The rules in Part 340 establish requirements for the licensure of Illinois veterans' homes. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 340.1375 is amended to include new requirements for nursing assistants under the Health Care Worker Background Check Act. Facilities are required to contact the Department's nurse aide registry to find out whether the individual has a current background check. Provisions concerning placement of a nursing assistant on the registry are deleted, since a new Section 340.1376 is being added to specify and clarify registry requirements.

Section 340.1376 is added to set forth requirements for registry of certified nurse aides, which are expanded under P.A. 89-197.

Section 340.1377 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," and "direct care," as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate the Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care for residents. Facilities are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (l). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

for fingerprint -based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Facilities are not obligated to employ applicants who are granted waivers (subsection (k)). Subsection (m) requires facilities to send a copy of the results of the background check to the State nurse aide registry. Requirements for retention of records are set forth in subsection (n).

The economic effect of this rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the Notice in the *Illinois Register*.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? Yes

This rulemaking includes an incorporation by reference in Section 340.1376.

9) Are there any other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not create or expand a State Mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issues of the *Illinois Register* to:

Ms. Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Long-term care facilities

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Facilities are required to retain on file for five years records requests for all employees covered under P.A. 89-197 except nurse aides.

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Emergency Amendments begins on page: 500

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code

2) Code Citation: 77 Ill. Adm. Code 350

3)

Section Numbers:	Proposed Action:
350.680	Amendments
350.681	New Section
350.683	New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved: The rules in Part 350 establish requirements for the licensure of intermediate care facilities for the developmentally disabled. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 350.680 is amended to include new requirements for nursing assistants and developmental disability aides under the Health Care Worker Background Check Act. Facilities are required to contact the Department's nurse aide registry to find out whether the individual has a current background check. Provisions concerning placement of a DD aide on the Registry are deleted, since a new Section 350.683 is being added to specify and clarify Registry requirements.

Section 350.681 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," and "direct care," as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate the Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care for residents. Facilities are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (l). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Facilities are not obligated to employ applicants who are granted waivers (subsection (k)). Subsection (m) requires facilities to send a copy of the results of the background check to the State nurse aide registry. Requirements for retention of records are set forth in subsection (n).

Section 350.683 is added to set forth requirements for registry of developmental disabilities aides, which are expanded under P.A. 89-197.

The economic effect of this rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the Notice in the *Illinois Register*.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? No

9) Are there any other Proposed Amendments Pending on this Part? Yes

Section Numbers	Proposed Action	Ill. Reg. Citation
350.330	Amendments	19 Ill. Reg. 14561
350.1080	New Section	19 Ill. Reg. 14561
350.1082	New Section	19 Ill. Reg. 14561
350.1084	New Section	19 Ill. Reg. 14561
350.1086	New Section	19 Ill. Reg. 14561
350.1220	Amendments	19 Ill. Reg. 14561
350.1420	Amendments	19 Ill. Reg. 14561
Appendix E	New Section	19 Ill. Reg. 14561

10) Statement of Statewide Policy Objectives: This rulemaking will not expand or establish State mandates.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Ms. Gail M. DeVito

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Long-term care facilities

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Facilities are required to retain on file for five years records requests for all employees covered under P.A. 89-197 except nurse aides.

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendments is identical to the text of the emergency amendments that appear on page 516 .

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Long-Term Care Assistants and Aides Training Programs Code

2) Code Citation: 77 Ill. Adm. Code 395

3)

Section Numbers:	Proposed Action:
395.50	New Section
395.100	Amendments
395.110	Amendments
395.120	Amendments
395.130	Amendments
395.140	Amendments
395.150	Amendments
395.160	Amendments
395.170	Amendments
395.173	New Section
395.174	New Section
395.175	Amendments
395.180	Repealer
395.190	Amendments
395.310	Amendments

4) Statutory Authority: Nursing Home Care Act 210 ILCS 45

5) A Complete Description of the Subjects and Issues Involved:

The rules in Part 395 establish requirements for the approval of long-term care assistants training programs. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 395.50 is being added to define the following words: act, approved evaluator, approved manual skills, child care/habilitation aide, competency test, clinical practice instruction, curriculum coordinator, department, developmental disabilities aide, direct contact, nurse, qualified mental retardation professional, physician, registered nurse, supervised laboratory, train the trainer workshop/program.

Section 395.100(b) recognizes a certification of exemption from the State Board of Education. Home health agencies are being added as locations that can sponsor training in subsection (c). Statutory citations are being updated.

Application requirements for program approval are amended in Section 395.110. The word "initial" is removed to allow the same application process for all programs. Subsection (a) is being deleted since a letter of application rather than an application is required. The new subsection

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(a) clarifies that a letter of application is required for each training program. A copy of the sponsor's certificate from the Board of Higher Education is required in subsection (b)(2). Subsection (b)(4) requires a statement that the Department's model program is being used, if it is. The requirement for a master calendar was deleted from subsection (b)(5). A curriculum coordinator must be identified for developmental disabilities aide training programs in subsection (b)(5)(D). Subsection (b)(6) requires the submission of valid Illinois licenses, as applicable. A description of tools used to evaluate the program, rather than a copy, can be submitted according to subsection (b)(8). The requirement for a final exam was deleted from subsection (b)(8)(B). Subsection (b)(8)(C) requires a copy or description of tools used to evaluate clinical skills. A copy of the attendance policy is required in subsection (b)(9). Subsection (c) clarifies that developmental disabilities aides training programs are administered by the Department of Mental Health and Developmental Disabilities.

Section 395.120 clarifies the program approval process by deleting references to an application in subsections (b) and (c). Federal citations are updated.

Section 395.130 clarifies the review process for approved programs in subsection (b) by stating that the program shall be evaluated for compliance with this Part and include, if necessary, monitoring visits. Subsection (c) indicates that the program shall be evaluated based on the number of students who successfully complete the course.

Section 395.140(a) clarifies that a program for which there has been no activity in the last year is inactive. Subsections (b) and (c) detail how an inactive program can return to an active status.

Section 395.150 specifies the hours for instruction. The maximum number of hours was deleted from subsections (a)(1) and (b)(1). Subsection (a)(3) includes an example of the two to one ratio for training. The ratio of class vs. on-the-job-training is specified in subsection (b)(3).

Section 395.160(c)(1) clarifies the role of the curriculum coordinator. Subsection (c)(2) lists program instructor requirements of at least (A) being a qualified mental retardation professional with one year of experience in developmental disabilities (DD) programs; (B) having a valid teaching certificate and at least one year of (DD) experience; (C) being a community college instructor with familiarization with (DD) programs; and (D) being a registered nurse with one year of experience with (DD) programs. References to "a current Illinois license" for a registered nurse were deleted in several places because the definition Section requires a registered nurse to have a current Illinois license.

Section 395.170 defines program operation. Subsection (a) requires that

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

potential students be counseled on the requirements of the Health Care Worker Background Check Act [225 ILCS 46]. According to subsection (d), the manual skills evaluation applies only to individuals enrolled in an approved Basic Nursing Assistant Training Program; and an approved evaluator who is not an approved instructor must meet the requirements of Section 395.160 of this Part.

Section 395.173 defines the successful completion of a Basic Nursing Assistant Training Program as in subsection (a) completing the theory and class clinical instruction; demonstrating manual skills competence; and in subsection (b) passing the competency test.

Section 395.174 defines the successful completion of a Developmental Disabilities Aide or Child Care/Habilitation Aide Training Program as completing the theory and clinical instruction and any tests/quizzes/exams required by the program.

Section 395.175 was revised to clarify that program sponsors must notify the Department of those individuals who have successfully completed the training program. Subsection (d) recognizes that the signature of the curriculum coordinator can be given, if applicable.

Section 395.180 was repealed because the revised Section 395.130 more accurately reflects Department monitoring procedures.

Section 395.190(a) deleted the reference to application.

Section 395.310 was revised to require that developmental disabilities aides training programs include those basic principles which are considered best practice by developmental disabilities service system leaders in the areas of active treatment, advocacy, choice/preference, communication/active listening, confidentiality, documentation, involvement/participation, normalization/age appropriate outcomes for people, people first language, quality assurance, respect/dignity, rights/responsibilities, self advocacy/empowerment, customer satisfaction, and appreciation for diversity. Subsection (b)(1) was added to require training in types and styles of communication with residents. "Control" was changed to "management and self control" in subsection (d)(6) to more accurately represent trends in the field. Several minor revisions were made to reflect people first language and an emphasis on community integration.

The economic effect of this rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the Notice in the *Illinois Register*.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Register.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? Yes

This rulemaking includes an incorporation by reference in Section 395.120(b).

9) Are there any other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives:

This rulemaking will not expand or establish a State mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking:

Interested persons may present their comments concerning these rules by writing to:

Ms. Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-6187

within 45 days after this issue of the *Illinois Register*.

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Long-term care facilities

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Application procedures are amended to clarify the information

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

required in a letter of application for program approval.

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 395
LONG-TERM CARE ASSISTANTS AND AIDES TRAINING PROGRAMS CODE

SUBPART A: PROGRAM APPLICATION AND APPROVAL PROCESS

Section
395.50 Definitions
395.100 Program Sponsor
395.110 Application for ~~Initial~~ Program Approval
395.120 ~~Application~~ Review Process and Program Approval
395.130 Review ~~Renewal~~ of Approved Training Program ~~Approval~~
395.140 Inactive Status
395.150 Minimum Hours of Instruction ~~Timeframe Requirements~~
395.160 Instructor Requirements
395.170 ~~Basic Nursing Assistant Training~~ Program Operation Requirements
395.173 Successful Completion of the Basic Nursing Assistant Training Program
395.174 Successful Completion of the Developmental Disabilities Aide or Basic Child Care/Habilitation Aide Training Program
395.175 Program Notification Requirements
395.180 Department Monitoring (Repealed)
395.190 Denial, Suspension, and Revocation of Program Approval
395.200 Other Programs Conducted by Facilities (Repealed)

SUBPART B: TRAINING PROGRAM CURRICULA REQUIREMENTS

Section
395.300 Basic Nursing Assistant Training Program
395.310 Developmental Disabilities Aide Training Program
395.320 Basic Child Care/Habilitation Aide Training Program

SUBPART C: PROFICIENCY EXAMINATION

Section
395.400 Proficiency Examination

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Adopted at 13 Ill. Reg. 19474, effective December 1, 1989; amended at 17 Ill. Reg. 2984, effective February 22, 1993; emergency amendment at 20 Ill. Reg. _____, January 1, 1996; amended at 20 Ill. Reg. _____, effective _____.

SUBPART A: PROGRAM APPLICATION AND APPROVAL PROCESS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section 395.50 Definitions

Act - the Nursing Home Care Act [210 ILCS 45].

Approved evaluator - a registered nurse who has attended a Department-sponsored evaluator workshop, meets the Instructor Requirements in Section 395.160 of this Part, and has no fiduciary connection with the facility by which the candidate is employed or will be employed within 30 days of the evaluation.

Approved manual skills - the following tasks demonstrated by a candidate: washing hands, performing oral hygiene, hair care or nail care for a client, shaving a client's face, taking a client's oral temperature and pulse, measuring a client's respiration and blood pressure, making an occupied and unoccupied bed, feeding and dressing a client, making a final room check prior to client occupancy, measuring a client's weight and height, placing a client in a side-lying position, performing passive range of motion on a client, calculating a client's intake and output of fluids, transferring a client to a wheelchair using a safety belt, and giving a client a partial bath.

Child Care/Habilitation Aide - any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Competency test - a comprehensive multiple choice test meeting the requirements of 42 CFR 483. Administered by the Department or a school, agency or similar institution under agreement with the Department.

Clinical practice instruction - a teaching method used during the practical application of skill competencies (on-the-job training - OJT) in which the trainee explains and demonstrates skill competencies learned during the theory and OJT sections to an acceptable level in the presence of an OJT instructor.

Curriculum Coordinator - In each Developmental Disabilities Aide Training Program, a qualified mental retardation professional who is responsible for planning, organization, management, coordination with training staff, compliance, documentation, and linkage with the Department and the Department of Mental Health and Developmental Disabilities. The Curriculum Coordinator is not required to be an instructor.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Department - the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide - any person who provides nursing, personal or habilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Direct contact - the provision of any services to a client by an individual carrying out tasks usually done by nurse aides.

Nurse - A registered nurse or a licensed practical nurse as defined in the Illinois Nursing Act of 1987 [225 ILCS 65]. (Section 1-118 of the Act)

Qualified Mental Retardation Professional - a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreation specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Physician - any person licensed to practice medicine in all its branches as provided by the Medical Practice Act of 1987 [225 ILCS 60].

Registered nurse - a person with a valid license to practice as a registered professional nurse under the Illinois Nursing Act of 1987 [225 ILCS 65].

Supervised laboratory - a teaching method utilized during the theory section of the program requiring the trainee to demonstrate skill competencies that were taught by the instructor as part of the theory section of the program.

Train The Trainer Workshop/Program - a college based program, no less

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

than 30 clock hours, designed to prepare a registered nurse (RN) to teach certified nurse aide (CNA) students. The course includes learning principles, teaching methods, curriculum development and instructional techniques; or the Department sponsored program held prior to October 1991.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 395.100 Program Sponsor

Training program sponsors may be any one of the following:

a) A community college or other public school operated by the state of Illinois or unit of local government.

b) A private vocational or business school as defined in the Private Business and Vocational Schools Act [105 ILCS 425] ~~{Ill.--Rev.--Stat.--1991,--ch.--144,-par.-136-et-seq.}~~, which holds a valid certificate of approval or certificate of exemption issued by the State Board of Education under rules entitled "Private Business and Vocational Schools" (23 Ill. Adm. Code 451).

c) A facility licensed by the Department ~~of-Public-Health-(Department)~~ under the Nursing Home Care Act ~~{Ill.-Rev.-Stat.--1991,--ch.--111-1/2,-par.--4151-101--et-seq.}~~ or under the Hospital Licensing Act [210 ILCS 85] or under the Home Health Agency Licensing Act [210 ILCS 55] ~~{Ill.-Rev.-Stat.-1991,-ch.-111-1/2,-par.-142-et-seq.}~~.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 395.110 Application for ~~Initial~~ Program Approval

~~a) The-program-sponsor-shall-submit-an-application--for--initial--program approval-for-each-training-program.~~

a)~~b)~~ The program sponsor shall submit a letter of ~~an~~ application for ~~initial~~ program approval to each ~~the~~ Department at least ninety days in advance of the scheduled beginning of the training program. The program sponsor shall not offer the training program prior to receipt of written approval from the Department. The Department will not grant retroactive approval of training programs.

b)~~c)~~ The letter of application ~~for-program-approval~~ shall include at least the following information about the proposed program:

1) A statement of whether the training program being proposed is a:
   A) Basic Nursing Assistant Training Program,
   B) Developmental Disabilities Aide Training Program, or
   C) Basic Child Care/Habilitation Aide Training Program.

2) A ~~A--description-of-the-program-sponsor.--If-the-program-sponsor~~ ~~is-a-private--business--or--vocational--school,--a~~ copy of the sponsor's certificate of approval issued by the State Board of Education or the Board of Higher Education, as appropriate, if the sponsor is a private business, vocational school or college ~~shall-be-included~~.

3) A statement of the program rationale, including the philosophy and purpose of the program.

4) A statement indicating that the Department's model program based on Section 395.300 of this Part is being used or an ~~An~~ outline containing the methodology, content, and objectives for the training program.
   A) The outline shall indicate the number of hours that will be dedicated to each component of the training program. This outline shall not preclude the instructor from varying the order of presentation of the outlined course components.
   B) The outline shall address each of the required curricula content requirements contained in Section 395.300 (Basic Nursing Assistant Training Program), Section 395.310 (Developmental Disabilities Aides Training Program), or Section 395.320 (Basic Child Care/Habilitation Aide Training Program).

5) A master schedule ~~or-calendar~~ for the training program, which includes at least the following:
   A) The location, classroom designation, and scheduled dates of the training program.
   B) The allocation of the daily and total hours of instruction between theory and clinical instruction.
   C) Identification of theory and clinical instructor(s) and approved evaluator, and whether the instruction is theory ~~theoretical~~ or clinical.
   D) Curriculum Coordinator, for developmental disabilities aide training programs.

6) Resumes describing the education, experience, and qualifications of each program instructor including a copy of any valid Illinois licenses, as applicable.

7) Any clinical site agreements for the use of facilities and equipment that ~~which~~ are not owned or operated by the program sponsor. Such agreements shall be signed by the owner or operator of the facilities or equipment and shall include the dates such facilities or equipment will be used, and a description of the classrooms, laboratory, clinical training equipment, and any other facilities or equipment that ~~which~~ will be used in the program.

8) A copy or a description of the ~~evaluation~~ tools that will be used to evaluate the following aspects of the training program:
   A) Training program objectives and instructors ~~methodology~~.
   B) Training program content ~~{final-program-exam}~~.
   C) Clinical performance, encompassing all skills taught, and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

for a Basic Nursing Assistant Training Program, ~~if in addition to~~ the State-approved manual skills evaluation developed from the curriculum outlined in Section 395.300.

~~B) Training program instructors.~~

9) A copy of the attendance policy.

c)~~d)~~ The program sponsor for all programs except Developmental Disabilities Aide Training Programs shall submit the letter of application for ~~initial~~ approval of a training program to the Department at the following address:

Illinois Department of Public Health
Office of Health Care Regulation
Education and Training Section
525 West Jefferson Street
Springfield, Illinois 62761

~~Applications for approval of Developmental Disabilities Aide Training Programs shall be submitted to the Department of Mental Health and Developmental Disabilities at the following address:~~

~~Illinois Department of Mental Health and Developmental Disabilities~~
~~Division of Developmental Disabilities~~
~~Wm. G. Stratton Building, Room 405~~
~~Springfield, Illinois 62725~~

d)~~e)~~ No changes will be required in the program content of any training program, which was approved under rules in effect at the time of the adoption of amended rules, until a review by the Department indicates that revisions to the program content are needed to keep the program in compliance with the amended rules.

AGENCY NOTE: The Department has a Memorandum of Understanding with the Department of Mental Health and Developmental Disabilities to administer the approval of the Developmental Disabilities Aide Training Programs in accordance with the requirements of this Part. Questions and correspondence should be directed to the DMHDD Developmental Disabilities Aide Training Curriculum Evaluator, William G. Stratton Building, Room 405, Springfield, Illinois 62765.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 395.120 ~~Application~~ Review Process and Program Approval

~~a) Each application for initial program approval of a Basic Nursing Assistant or Basic Child Care/Habilitation Aide Training Program will be reviewed by the Department. The Department of Mental Health and Developmental Disabilities will review and either approve or disapprove applications for Developmental Disabilities Aide Training Programs in accordance with the requirements set forth in this Part.~~

a)~~b)~~ The Department will evaluate the application and proposed program for conformance to the program requirements contained in this Part. Based on this review, the Department will take one of the following actions

regarding the application:

1) Grant approval of the proposed program.
2) Grant approval of the proposed program contingent on the receipt of additional materials, or revisions, needed to remedy any minor deficiencies in the application or proposed program, which would not prevent the program from being implemented, such as deficiencies in the number of hours assigned to cover different areas of content, which can be corrected by submitting a revised schedule or outline.
3) Deny approval of the proposed program based on major deficiencies in the application or proposed program, which would prevent the program from being implemented, such as deficiencies in the qualifications of instructors or missing areas of content.

b)~~e)~~ When the Department finds that a ~~an application or~~ proposed program fails to comply with the program requirements contained in this Part or 42 CFR 483.151(b)(2)(i-v) (October 1, 1994 ~~56 FR 40919, September 26, 1991~~, no further editions or amendments included), the Department will notify the sponsor in writing of the nature of the deficiencies, and will request additional materials, or revisions, needed to remedy deficiencies in the application or proposed program.

c)~~d)~~ When the Department finds that a ~~an application and~~ proposed program, along with any additional materials and revisions which have been submitted, complies with the program requirements contained in this Part, the Department will issue a written notice of program approval to the program sponsor.

d)~~e)~~ The Department will issue an identification number to each approved training program sponsor. The sponsor shall reference that number in any correspondence to the Department about the program.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 395.130 Review ~~Renewal~~ of Approved Training Program Approval

a) The Department will review each approved training program for renewal ~~of the program approval~~ at least every other year.

b) The program renewal review shall evaluate compliance with this Part and include, if necessary, an on-site monitoring visit. ~~include consideration of each of the following:~~

~~1) The master schedule for the program as outlined in Section 395.110(e)(5);~~

~~2) Any clinical site agreements as outlined in Section 395.110(e)(7);~~

~~3) Any other information required in Section 395.110(e) which has changed since the Department granted initial program approval or since the previous renewal of the program approval;~~

~~4) Compliance with 42 CFR 483.151(b)(2)(i-v);~~

~~5) On site monitor visit report.~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

c) The proportion of an approved training program's students who successfully complete the training program will be considered by the Department in determining the need for additional on-site visits and other monitoring activities. ~~The Department of Mental Health and Developmental Disabilities will review and either approve or disapprove applications for program renewal of Developmental Disabilities Aide Training Programs in accordance with the requirements of this Part.~~

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 395.140 Inactive Status

a) The Department shall place an approved training program on inactive status upon receipt of a written request from the program sponsor for such action or if there has been no ~~Absence of~~ program activity during the last year. ~~program approval period shall also result in placement of a program on inactive status.~~

b) To return an approved training program that has been on inactive status for one year or less to active status, the sponsor of the program shall submit a written request to the Department detailing any changes in the approved training program and a master schedule in accordance with Section 395.110(b)(5) of this Part.

~~1) The request for return to active status shall include the master schedule for the program and each of the other items required for a request for program renewal under Section 395.130(b).~~

c) An approved training program that has been on inactive status for more than one year shall submit a letter of application as required in Section 395.110 of this Part.

d) ~~2)~~ The request for return to active status must be submitted no ~~less~~ fewer than 60 days prior to the scheduled beginning of the program.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 395.150 Minimum Hours of Instruction ~~Timeframe Requirements~~

a) Timeframes ~~Timeframe requirements~~ for Basic Nursing Assistant Training Programs

1) Each program shall include a minimum of 120 hours of instruction, excluding breaks, lunch, and any orientation to the specific policies of the employing facility. ~~A program may include a maximum of 155 hours of instruction.~~

2) The basic program content shall be presented in a minimum timeframe of three weeks, but cannot exceed 120 days, unless the training program is conducted by a community college or other educational institution on a term, semester, or trimester basis.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

3) There shall be a ratio of two hours of theory, including supervised laboratory, to each hour of supervised clinical practice instruction (i.e., 80 hours of theory and 40 hours of clinical). This ratio applies only to the required 120 hours of instruction.

4) A minimum of 12 hours of theory instruction related to Alzheimer's disease and related dementias, as described in Section 395.300(r) through (z), shall be included in each program, excluding breaks, lunch, and any orientation to the specific policies of the employing facility.

5) A minimum of 16 hours of training in the following areas must be conducted prior to any direct contact with a resident (42 CFR 483.152(a)(3-6)):

A) Communication and interpersonal skills;

B) Infection control ~~Control~~;

C) Safety/emergency procedures, including the Heimlich maneuver;

D) Promoting residents' independence; and

E) Promoting residents' rights.

b) Timeframes ~~Timeframe requirements~~ for Developmental Disabilities Aide Training Programs and Basic Child Care/Habilitation Aide Training Programs

1) Each program shall include a minimum of 120 hours of instruction, excluding breaks, lunch, and any orientation to the specific policies of the employing facility. ~~A program may include a maximum of 155 hours of instruction.~~

2) The basic program content shall be presented in a minimum timeframe of three weeks, but cannot exceed 120 days, unless the training program is conducted by a community college or other educational institution on a term, semester, or trimester basis.

3) There shall be a ratio of one hour ~~two hours~~ of theory, including supervised laboratory with the theory instructor, for every two hours ~~to each hour~~ of ~~supervised~~ clinical practice instruction (on-the-job training). This ratio applies only to the minimum required 120 hours of instruction.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 395.160 Instructor Requirements

a) Requirements for Instructors in a Basic Nursing Assistant Program or a Basic Child Care/Habilitation Aide Training Program

1) Each course instructor shall be a registered nurse with a minimum of two years nursing experience ~~and a current Illinois license~~, who has no other duties while engaged in the training program. Instructors shall be required to have one year of experience as a registered nurse in one or both of the following areas:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

A) Teaching an accredited nurse's ~~nurse~~ training program.
B) Caring for the elderly or for the chronically ill of any age through employment in a nursing facility, extended care unit, geriatrics department, chronic care unit, hospice, swing bed unit of a hospital, or other long-term care setting.

2) Each theory course instructor shall also possess at least one of the following qualifications:
A) A valid Illinois teaching certificate (not a provisional certificate).
B) A certificate indicating completion of a Department approved train the trainer workshop/program.
C) Evidence of at least one semester of formal teaching experience.
D) College coursework during the previous six years which includes at least one course in teaching/learning principles, curriculum development, teaching methods, or instructional techniques.

b) Requirements for Instructors of the Alzheimer's Disease and Related Dementias (Section 395.300(r) through (z)) Portions of a Basic Nursing Assistant Program
1) Each instructor shall be a registered nurse ~~with a current Illinois license~~, who has no other duties while engaged in the training program.
2) Each instructor shall also possess at least one of the following qualifications:
A) At least one year of experience providing services for patients with Alzheimer's disease and related dementias and at least one semester of formal teaching experience.
B) Documentation of completion of a specialized workshop, course, seminar or other training for instruction in Alzheimer's disease and related dementias ~~(see Section 395.300(r) through (z))~~.

c) Requirements for Instructors in a Developmental Disabilities Aide Training Program
1) The curriculum coordinator monitors the Developmental Disabilities Aide Training Program and ensures that instructors are qualified and are instructing the program as required. ~~must be a qualified mental retardation professional as defined at 77 Ill. Adm. Code 350.330.~~
2) Each program instructor of theory shall meet at least one of the following:
~~A) Verification of successful completion of a train the trainer workshop approved by the Department of Mental Health and Developmental Disabilities;~~
A)~~B)~~ Be a ~~A~~ Qualified Mental Retardation Professional with at least one year of experience with developmental disabilities programs; ~~approved as a trainer by the Department of Mental Health and Developmental Disabilities;~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~C) At least one year of experience with developmental disabilities programs and approved by the Department of Mental Health and Developmental Disabilities;~~
B)~~D)~~ Have a valid Illinois teaching certificate with at least one year of experience with developmental disabilities programs;
C)~~E)~~ Be a community college or college instructor with at least one year of teaching experience and familiarization with developmental disabilities programs;
~~F) College coursework during the previous six years which includes teaching/learning principles, curriculum development, teaching methods, and instructional techniques.~~
D) Be a registered nurse with at least one year of experience with developmental disabilities programs.

d) Supplemental Instructors (Special Content Instructor) in a Basic Nursing Assistant Program and Developmental Disabilities Aide Program must have at least one year experience in their fields of expertise. These would include, but not be limited to, registered nurses, licensed practical nurses, pharmacists, dieticians, social workers, sanitarians, fire safety experts, nursing home administrators, gerontologists, psychologists, physical and occupational therapists, activities specialists, speech/language/hearing therapists, and resident rights experts. (42 CFR 483.152(a)(5)(iv))

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 395.170 ~~Basic Nursing Assistant Training~~ Program Operation Requirements

a) The program shall provide counseling to all individuals seeking admission to the program concerning the Health Care Worker Background Check Act [225 ILCS 46]. The counseling must include, at a minimum, a clear statement that a UCIA Criminal Background Check is required for the individual to work as a nursing assistant, developmental disabilities aide, or basic child care/habilitation aide in Illinois; and a listing of those Sections of the Criminal Code of 1961 [720 ILCS 5], the Cannabis Control Act [720 ILCS 550], and the Illinois Controlled Substances Act [720 ILCS 570] for which a conviction would disqualify the individual from finding employment as a nursing assistant.
b)~~a)~~ Ten working days prior to the start of the actual training program, an updated master schedule, in accordance with Section 395.110(b)(5) of this Part, shall be submitted to the Department.
c)~~b)~~ Any change in program content, objectives, or instructors shall be submitted to the Department at least thirty days prior to program delivery.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

d)~~c)~~ In the Basic Nursing Assistant Training Program, the ~~The~~ program shall require each student to show competency of Department approved manual skills by hands-on return demonstration~~,--as--well--as--the successful-completion-of-a-written-examination-encompassing-theory-and skills--taught~~. The manual skills ~~competency~~ evaluation shall be conducted by an approved evaluator. Approved evaluators employed by a facility may not evaluate students trained by the facility program. The facility shall assure that an approved evaluator who is not an approved instructor meets the requirements of Section 395.160 of this Part.

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 395.173 Successful Completion of the Basic Nursing Assistant Training Program

a) A student shall be considered to have successfully completed the training program when all of the following are met: The student has
   1) completed at least 80 hours of theory and 40 hours of clinical instruction;
   2) demonstrated competence in the Department-approved manual skills.
b) A student must pass the Department established competency test.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 395.174 Successful Completion of the Developmental Disabilities Aide or Basic Child Care/Habilitation Aide Training Program

A student shall be considered to have successfully completed the training program when the student has completed the theory and clinical instruction and tests/quizzes/exams in accordance with the sponsor's policies.

(Source: Added at 20 Ill. Reg. _____, effective _____)

Section 395.175 Program Notification Requirements

The program sponsor shall submit, within 30 days after program completion, a list of all trainees who have successfully completed ~~demonstrate-competency-in the-theory-and-skills-taught-in~~ the training program. The list shall include the following information:

a) Name, complete home address and Social Security number of the trainee;
b) Identification number of the training program;
~~c) A--statement--that--the--individual--has--completed--the-Basic-Nursing Assistant-Training-Program-and--documented--completion--of--the--State approved--manual--skills--competency--evaluation,--or--a-Developmental~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~Disabilities-Aide-Training-Program,-or-Basic--Child--Care/Habilitation Aide-Training-Program;~~
c)~~d)~~ Program completion date;
d)~~e)~~ Signature of the program instructor and approved evaluator, when appropriate, or curriculum coordinator, as applicable. (Any additional signatures are optional.)

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 395.180 Department Monitoring (Repealed)

~~a) The--Department--will--monitor--the--operation--of--approved--training programs-through-on-site-visits-and-other-monitoring-activities,--such as---written---inquiries,--reviews--of--success--rates--on--competency examinations,--and--questionnaires.----The--Department--will---conduct on-site--visits--prior--to-approval,-or-renewal,-or-at-least-every-two years-for-all-training-programs.----The--proportion--of--the--training program's-students-who-successfully-complete-the-competency-evaluation will--be--considered--by--the--Department--in-determining-the-need-for on-site-visits-and-other-monitoring-activities.~~
~~b) When-the-Department-determines-that-the-program-fails-to--comply--with any--of--the--program--requirements--contained--in-this-Part-or-42-CFR 483.151(b)(2)(i-v),-the-Department-will-initiate-action-to-suspend--or revoke-the-program-approval-in-accordance-with-Section-395.190.~~

(Source: Repealed at 20 Ill. Reg. _____, effective _____)

Section 395.190 Denial, Suspension, and Revocation of Program Approval

a) When the Department finds that a ~~an-application-or~~ proposed program, along with any additional information and revisions which are submitted, fails to comply with the program requirements contained in this Part or 42 CFR 483.151(b)(2)(i-v), the Department will notify the sponsor in writing of denial of program approval. The notice to the sponsor shall state the reasons for the denial and the right of the sponsor to appeal the denial and to a hearing before the Department.
b) When the Department, upon evaluation or during monitoring, finds that an approved program does not comply with the program requirements contained in this Part or 42 CFR 483.151(b)(2)(i-v), the Department will notify the sponsor in writing of the finding of non-compliance of the program and the reasons for the finding.
c) When the Department finds that any conditions stated in the written notice of non-compliance issued under subsection (b) of this Section have not been corrected within thirty days after the date of issuance of such notice, the Department will revoke or suspend its approval of the program.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) The Department shall suspend approval when the program fails to substantially comply with the approved program plan during the operation of the program. Substantial failure to comply with the approved program plan includes program instruction being conducted contrary to the master schedule, contrary to the approved content, by an individual other than the approved instructor, or at a location other than the approved site or sites.
2) The Department will revoke approval when an approved program fails to comply with the program requirements of this Part or 42 CFR 483.151(b)(2)(i-v).
3) When the approval of a program has been suspended or revoked for reasons other than 42 CFR 483.151(b)(2)(i-v), the program sponsor shall have a right to appeal the suspension or revocation and to a hearing before the Department.

d) When the approval of a program has been denied, suspended, or revoked, for reasons other than 42 CFR 483.151(b)(2)(i-v), the program sponsor may submit a written appeal of the action and request for a hearing within ten days after notification of the decision to deny, revoke or suspend approval.
e) All hearings under this Part shall be conducted in accordance with the Department's "Rules of Practice and Procedure in Administrative Hearings" (77 Ill. Adm. Code 100).

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 395.310 Developmental Disabilities Aide Training Program

The Developmental (DD) Disabilities Aide Training Program shall include~~,--at--a minimum,~~ the following values, themes, and principles, which are considered to be current best practice by the developmental disabilities service system leaders in the field: active treatment, advocacy, choice/preference, communication/active listening, confidentiality, documentation, involvement/participation, normalization/age appropriate outcomes for people, people first language, quality assurance, respect/dignity, rights/responsibilities, self advocacy/empowerment, customer satisfaction, and appreciation for diversity. At a minimum, the curriculum will also include the following:

a) Orientation
   1) Functions of long-term care facilities for individuals with developmental disabilities ~~the developmentally disabled~~
   2) The health care professions, support services for individuals with ~~the developmentally~~ developmental disabilities ~~disabled~~ and community social service agencies
   3) Philosophy of residential care and community living
   4) Role of the interdisciplinary team
   5) Job duties and responsibilities of the DD Aide

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

b) Introduction to the Residents
   1) Types and styles of communication with residents
   2)~~1~~ Communication and interpersonal relationships with residents, families and others
   3)~~2~~ Psychosocial needs of residents, ~~and~~ their family, and others
   4)~~3~~ The growth and development process
   5)~~4~~ Characteristics and types of developmental disabilities
   6)~~5~~ Resident's adjustment to death and dying
c) Fundamentals of Habilitation Planning
   1) Philosophy of achieving independent living skills
   2) Introduction of the individual habilitation plan including the role of each ~~the~~ employee in the habilitation process
   3) Habilitation plan assessment procedures and goal/future planning
   4) The role of the employee in the admission, transfer and discharge processes
   5) The role of the employee in basic resident care planning and procedures
d) Techniques of Habilitation Planning and Implementation. The role of the employee in social habilitation, including:
   1) Activities of daily living (ADL)
   2) Therapeutic and leisure time activities
   3) Education
   4) Community living adjustment
   5) Behavior development
   6) Behavior management and self control ~~control~~
   7) Effect of drugs in behavior management and illness
   8) Effective total ~~Total~~ communication
   9) Pre-vocational and vocational training
   10) Nutrition and fluid intake
   11) Diets and therapeutic diets
e) Principles of Record Keeping
   1) History and use of facility records with special emphasis on the role of the employee in the record keeping process
   2) Content and organization of resident records
   3) Recording methods for progress notes, universal notes, ADC notes and habilitation reviews
   4) Writing effective progress notes
   5) Confidentiality
   6) Recording admission, transfer and discharge information
f) Safety
   1) Basic fire safety
   2) Emergency and disaster procedures
   3) Injury prevention techniques
   4) Household daily safety procedures including body mechanics
g) Facility Environment
   1) Creating normalized environment for daily living activities
   2) Importance of cleanliness of the facility, use of equipment and supplies

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

h) Principles of Disease Control
   1) Introduction to micro-organisms causing resident illness and disease
   2) Teaching of disinfection and sanitation
i) Emergency Medical Procedures
   1) Cardiopulmonary resuscitation (CPR)
   2) Seizures
   3) Drug reactions
   4) Traumas
   5) Heimlich maneuver
j) Resident Rights
   1) Basic civil, human and legal rights of residents
   2) Protection of residents personal property
k) Bodily Functions
   1) Helping residents to understand their body functions
   2) Personal hygiene
   3) Human sexual behavior

(Source: Amended at 20 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code

2) Code Citation: 77 Ill. Adm. Code 390

3) Section Numbers: Proposed Action:

390.680	Amendments
390.681	New Section
390.683	New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved:

The rules in Part 390 establish requirements for the licensure of long-term care facilities for persons under age 22. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 390.680 is amended to include new requirements for nursing assistants, child care habilitation aides, and developmental disabilities aides under the Health Care Worker Background Check Act. Facilities are required to contact the Department's nurse aide registry to find out whether the individual has a current background check. Provisions concerning placement of a nursing assistant or aide on the Registry are deleted, since a new Section 390.683 is being added to specify and clarify Registry requirements.

Section 390.681 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," and "direct care," as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate the Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care for residents. Facilities are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (l). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Facilities are not obligated to employ applicants who are granted waivers (subsection (k)). Subsection (m) requires facilities to send a copy of the results of the background check to the State nurse aide registry. Requirements for retention of records are set forth in subsection (n).

Section 390.683 is added to set forth requirements for registry of child care habilitation aides, which are expanded under P.A. 89-197.

The economic effect of this rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the Notice in the *Illinois Register*.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? Yes

This rulemaking includes an incorporation by reference in Section 390.683.

9) Are there any other Proposed Amendments Pending on this Part? Yes

If Yes:

Section Numbers	Proposed Action	Ill. Reg. Citation
390.330	Amendments	19 Ill. Reg. 14607
390.1040	Amendments	19 Ill. Reg. 14607
390.1310	Amendments	19 Ill. Reg. 14607
390.1312	New Section	19 Ill. Reg. 14607
390.1314	New Section	19 Ill. Reg. 14607
390.1316	New Section	19 Ill. Reg. 14607
390.1320	Amendments	19 Ill. Reg. 14607
390.1330	Repealer	19 Ill. Reg. 14607
390.1420	Amendments	19 Ill. Reg. 14607
Appendix C	New Section	19 Ill. Reg. 14607

10) Statement of Statewide Policy Objectives: This rulemaking will not establish or expand State mandates.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing to

Ms. Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217/782-6187)

within 45 days after this issue of the *Illinois Register*.

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Long-term care facilities

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Facilities are required to retain on file for five years records of criminal records requests for all employees covered under P.A. 89-197 except nurse aides.

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendments is identical to the text of the emergency amendments that appear on page 539

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Sheltered Care Facilities Code

2) Code Citation: 77 Ill. Adm. Code 330

3) Section Numbers: Proposed Action:

330.910	Amendments
330.911	New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved: Section 330.910 is amended to include new requirements for nursing assistants under the Health Care Worker Background Check Act. Facilities are required to contact the Department's nurse aide registry to find out whether the individual has a current background check.

Section 330.911 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," and "direct care," as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate the Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care for residents. Facilities are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (l). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Facilities are not obligated to employ applicants who are granted waivers (subsection (k)). Subsection (m) requires facilities to send a copy of the results of the background check to the State nurse aide registry. Requirements for retention of records are set forth in subsection (n).

The economic effect of this rulemaking is unknown. Therefore, the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the Notice in the *Illinois Register*.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? No

9) Are there any other Proposed Amendments Pending on this Part? Yes

Section Numbers	Proposed Action	Ill. Reg. Citation
330.330	Amendments	19 Ill. Reg. 14660
330.1140	Repealer	19 Ill. Reg. 14660
330.1145	New Section	19 Ill. Reg. 14660
330.1150	New Section	19 Ill. Reg. 14660
330.1155	New Section	19 Ill. Reg. 14660
Appendix E	New Section	19 Ill. Reg. 14660

10) Statement of Statewide Policy Objectives: This rulemaking will affect county nursing homes.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Ms. Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, IL 62761
(217) 782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Long-term care facilities

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Facilities are required to retain on file for five years records requests for all employees covered under P.A. 89-197 except nurse aides.

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendments identical to the text of the emergency amendments that appear on page. 556

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code

2) Code Citation: 77 Ill. Adm. Code 300

3)

Section Numbers:	Proposed Action:
300.660	Amendments
300.661	New Section
300.663	New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved: The rules in Part 300 establish requirements for the licensure of skilled nursing and intermediate care facilities in Illinois. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 300.660 is amended to include new requirements for nursing assistants under the Health Care Worker Background Check Act. Facilities are required to contact the Department's nurse aide registry to find out whether the individual has a current background check. Provisions concerning placement of a nursing assistant on the Registry are deleted, since a new Section 300.663 is being added to specify and clarify Registry requirements.

Section 300.661 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," and "direct care," as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care for residents. Facilities are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (l). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Facilities are not obligated to employ applicants who are granted waivers (subsection (k)). Subsection (m) requires facilities to send a copy of the results of the background check to the State nurse aide registry. Requirements for retention of records are set forth in subsection (n).

Section 300.663 is added to set forth requirements for placement on the Nurse Aide Registry, including meeting background check requirements under Section 300.661.

The economic effect of this rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the Notice in the *Illinois Register*.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? Yes. This rulemaking includes an incorporation by reference in Section 395.120(b).

9) Are there any other Proposed Amendments Pending on this Part? Yes

Section Numbers	Proposed Action	Ill. Reg. Citation
300.330	Amendments	19 Ill. Reg. 14703
300.680	Amendments	19 Ill. Reg. 14703
300.682	New Section	19 Ill. Reg. 14703
300.684	New Section	19 Ill. Reg. 14703
300.686	New Section	19 Ill. Reg. 14703
300.1040	Repealer	19 Ill. Reg. 14703
300.1210	Amendments	19 Ill. Reg. 14703
300.1620	Amendments	19 Ill. Reg. 14703
Appendix F	New Section	19 Ill. Reg. 14703

10) Statement of Statewide Policy Objectives: This rulemaking will affect county nursing homes.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Ms. Gail M. DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield Illinois 62761
(217/782-6187)

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Long-term care facilities

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Facilities are required to retain on file for five years records requests for all employees covered under P.A. 89-197 except nurse aides.

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendments is identical to the text of the emergency amendments that appear on page. 571

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Sex Offender Registration Act

2) Code Citation: 20 Ill. Adm. Code 1280

3) Section Numbers: Proposed Action:

1280.10	Amendment
1280.20	Amendment
1280.30	Amendment
1280.40	Amendment

4) Statutory Authority: Implementing and authorized by Section 4 of the Sex Offender Registration Act [730 ILCS 150/4] and authorized by Section 55a of the Civil Administrative Code of Illinois [20 ILCS 2605/55a].

5) A Complete Description of the Subjects and Issues Involved: Incorporates provisions of the amended Act which include the addition of several qualifying offenses and include all sex offenders regardless of the victim's age. Includes addition of a Sex Offender Notification Form which provides positive notification and evidence thereof to convicted sex offenders regarding their responsibilities under the Act. Changes the manner in which records are submitted to the Department from a manual system to an automated system using the Law Enforcement Agencies Data System (LEADS), which closely follows existing law enforcement procedures.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: These amendments will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Within 45 days of the date of publication of this Notice, any interested person may submit comments, data, views or argument regarding the proposed amendments. The submissions must be in writing and directed to:

James W. Redlich
Chief Legal Counsel
Illinois State Police

DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED AMENDMENT

102 Armory Building
P.O. Box 19461
Springfield, IL 62794-9461
(217) 782-7658

12) Initial Regulatory Flexibility Analysis: The rulemaking has no effect on small businesses.

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The individuals involved with the development of these amended procedures were unfamiliar with the regulatory agency requirements associated with rulemaking.

The full text of the Proposed Amendments is identical to the emergency rules as they appear on page 642 of this issue of the *Illinois Register*.

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Animal Diagnostic Laboratory Act

2) Code Citation: 8 Ill. Adm. Code 110

3)

Section Numbers:	Adopted Action:
110.10	Amendment
110.40	Amendment
110.50	Amendment
110.70	Amendment
110.90	Amendment
110.120	Amendment
110.140	New Section

4) Statutory Authority: Animal Disease Laboratory Act [510 ILCS 10]

5) Effective Date of amendments: January 1, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this proposed amendment contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: January 1, 1996

9) Notices of Proposal Published in Illinois Register: September 15, 1995, 19 Ill. Reg. 12739

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: In Section 110.10, definitions have been placed in alphabetical order.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of amendments: References to "Division" have been changed to "Department". The name of the US Sanitation Monitored Herds has been changed by the USDA to U.S. S. Enteritidis, and therefore that reference has been changed in Section 110.40.

In Section 110.140, at the request of the Illinois Liquor Control Commission, a fee schedule has been established for tests the Commission wants the Department laboratories to conduct.

Out-of-state fees charged (Section 110.50(d)) are based upon the residency

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

of the owner rather than the animal.

The Department is in the process of negotiating a break in overnight shipping costs to pass along the savings to those shipping samples to the laboratories (Section 110.120).

Other amendments made are deleting those tests no longer offered and updating which Department laboratory offers specific testing services. The fee for "Other Tests - Complete" (Section 110.70(e)) is being increased to $20.00. A fee for "Trichomonas Transport Media" has been added (Section 110.90(a)). The fee structure (Section 110.120(a)) for the "Market Swine Health Checks" has been updated to reflect the current services offered by the Galesburg Laboratory.

16) Information and questions regarding this adopted amendment shall be directed to:

Name: Debbie Wakefield
Address: Illinois Department of Agriculture
State Fairgrounds, Springfield,
Illinois 62794-9281
Telephone: 217/785-5713 FAX: 217/785-4505

The full text of Adopted Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 110
ANIMAL DIAGNOSTIC LABORATORY ACT

Section
110.10 Definitions
110.20 Submitting Specimens
110.30 Payment For Laboratory Services
110.40 Tests Not Covered By Fee Schedule
110.50 Minimum Fees
110.60 Euthanasia Fees
110.70 Clinical Pathology Fees
110.80 Histopathology Fees
110.90 Microbiology Fees
110.100 Parasitology Fees
110.110 Toxicology Fees
110.120 Miscellaneous Fees
110.130 Meats Chemistry Fees
110.140 Liquor Control Commission Fees

AUTHORITY: Implementing and authorized by the Animal Disease Laboratory Act [510 ILCS 10].

SOURCE: Adopted and codified at 8 Ill. Reg. 9047, effective July 1, 1984; amended at 9 Ill. Reg. 4471, effective March 22, 1985; amended at 9 Ill. Reg. 19638, effective January 1, 1986; amended at 10 Ill. Reg. 9733, effective May 21, 1986; amended at 11 Ill. Reg. 10163, effective May 15, 1987; amended at 12 Ill. Reg. 3379, effective January 25, 1988; amended at 13 Ill. Reg. 3617, effective April 15, 1989; amended at 14 Ill. Reg. 1907, effective January 19, 1990; amended at 14 Ill. Reg. 3416, effective March, 1, 1990; amended at 14 Ill. Reg. 15304, effective September 10, 1990; amended at 16 Ill. Reg. 11416, effective July 1, 1992; amended at 18 Ill. Reg. 1825, effective February 1, 1994; amended at 18 Ill. Reg. 17433, effective December 1, 1994; amended at 20 Ill. Reg. 255, effective JAN 1 1996.

Section 110.10 Definitions

"Accession" is one animal or group of animals or samples from the same location, representative of a single disease or disease problem, and received at the laboratory on the same day.

"C" indicates the test is performed at the Animal Disease Laboratory--Centralia.

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

"G" indicates the test is performed at the Animal Disease Laboratory--Galesburg.

"S" indicates the test is performed at the State-Federal Serology Laboratory, Springfield.

"Specimen" is any animal or plant tissue or substance to which a test or procedure is applied.

~~a) "Accession" is one animal or group of animals or samples from the same location, representative of a single disease or disease problem, and received at the laboratory on the same day.~~

~~b) "Division" means the Division of Animal Industries of the Illinois Department of Agriculture.~~

~~c) "Specimen" is any animal or plant tissue or substance to which a test or procedure is applied.~~

~~d) "C" indicates the test is performed at the Animal Disease Laboratory--Centralia.~~

~~e) "G" indicates the test is performed at the Animal Disease Laboratory--Galesburg.~~

~~f) "S" indicates the test is performed at the State-Federal Serology Laboratory, Springfield.~~

(Source: Amended at 20 Ill. Reg. 255, effective JAN 1 1996)

Section 110.40 Tests Not Covered By Fee Schedule

a) No fee shall be charged for diagnostic tests required by Illinois law or programs herein listed (i.e., testing for bovine brucellosis, swine brucellosis, pullorum-typhoid, equine infectious anemia, U.S. S. Enteritidis ~~U.S.--Sanitation--Monitored~~ Flocks and pseudorabies). However, a charge shall be made for requested end titers on pseudorabies, unless the testing is approved for diagnostic purposes by the United States Department of Agriculture or by the Department ~~Division~~. A fee as set forth in Section 110.90 shall be charged on screening samples at the dilution of 1:2 for pseudorabies.

b) The Department ~~Division~~ shall approve testing for end titers on pseudorabies without charge when the herd is in a special state supervised testing program.

c) See 8 Ill. Adm. Code 110.90 for information on specialty testing situations.

(Source: Amended at 20 Ill. Reg. 255, effective JAN 1 1996)

Section 110.50 Minimum Fees

a) A minimum accession fee of $5 per accession shall be charged on all

accessions originating from Illinois animals, with the exception of samples for trichinosis testing for which the minimum accession fee is $1. If such fees for the individual tests exceed the minimum fee, no minimum fee shall be charged. Persons submitting specimens for which there are no charges for the laboratory procedure shall be exempt from the minimum fee.

b) The necropsy fee is $40 per accession up to four animals for all species and cadavers submitted where more than one test is needed, with an additional $15 for each additional animal. Poultry are exempt from the additional charge for each animal over four. If multiple tissue specimens are submitted where more than one test is needed, the fee is $35 per accession for up to four animals with an additional $15 for each additional animal. The necropsy fee and multiple tissue specimens fee will include a test in pathology, microbiology, parasitology and toxicology as indicated by the necropsy. These fees do not include electron microscopy examination, toxicologic screens, water and feed analysis, serology or herd surveys. In cases where only a necropsy is performed without any tests, the fee is $20 plus the disposal fee. The fee for a cosmetic necropsy is $200 (cases where the owner wants the carcass back).

c) Electron microscopy and toxicologic tests (other than a screen for metals and pesticides) shall be performed only after consultation with and with approval from the person who requested the laboratory services at the fees set forth in this Part.

d) All fees, including the minimum accession and necropsy fee, shall be doubled on all out-of-state owners ~~animals~~, unless a specific charge is noted or the sample is referred from another state diagnostic laboratory at which time only the in-state fee will be charged.

e) Serologic tests on paired, acute and convalescent specimens will be billed as one accession at the fee set forth in this Part.

f) Accessions submitted as "rush priority" specimens shall be charged at twice the normal rate. This charge shall apply to any submission requesting service at a rate faster than the normal laboratory routine turnaround time for the requested test (e.g., before the regularly scheduled day, before other samples or on days requiring additional personnel time such as weekends or holidays). For cases where there is no in-state fee (i.e., pseudorabies or bovine or swine brucellosis), the fee shall be as for out-of-state samples.

g) The fee for accessions up to four animals or multiple tissues from up to four animals for the following work-ups will be as indicated, with an additional $15.00 for each additional animal. Poultry are exempt from the additional charge for each additional animal over four.

1)	Porcine Abortion Work-up	$50.00 C, G
2)	Bovine Abortion Work-up	75.00 C, G
3)	Respiratory or Enteric Diagnostic Work-up	50.00 C, G

(Source: Amended at 20 Ill. Reg. _____, effective _____)

Section 110.70 Clinical Pathology Fees

The following fees apply to those specimens submitted where a necropsy is not involved; with a minimum total fee of $5.00:

a)	Hematology:		
1)		Complete Blood Count (RBC, Hb, Ht, WBC, Diff.)	$ 8.00 C, G
2)		Erythrocyte	3.00 C, G
3)		Leukocyte	3.00 C, G
4)		Bendixen Key	5.00 C, G
5)		Hemoglobin	3.00 C, G
6)		Hematocrit	3.00 C, G
7)		Differential	3.00 C, G
~~8)~~		~~L.E. Prep (lupus erythematosus)~~	~~10.00 G~~
8)~~9)~~		Eosinophil Count--Total	5.00 C
9)~~10)~~		Stippling	3.00 C, G
10)~~11)~~		Fibrinogen	3.00 G
11)~~12)~~		Erythrocyte Indices	3.00 G
12)~~13)~~		Shorr Stain (canine distemper)	5.00 C, G
13)~~14)~~		Hemobartonella--Acridine Orange	5.00 C
14)~~15)~~		Erythrocyte Parasites--Wright's Giemsa Stain	5.00 C, G
15)~~16)~~		Erythrocyte Sedimentation Rate	5.00 C
16)~~17)~~		Blood Compatibility Crossmatch	7.00 C
17)~~18)~~		Pandy (Qualitative Protein)	3.00 C
18)~~19)~~		Bone Marrow, Collection and Examination	20.00 C
19)~~20)~~		Bone Marrow Examination	5.00 C, G
20)~~21)~~		Microfilaria	3.00 C, G
b)	Urinalysis		
1)		Routine Chemistry and Microscopic Examination	5.00 C, G
2)		Urine Urobilinogen, Qualitative	3.00 G
3)		Urine Na	3.00 C
4)		Urine K	3.00 C
c)	Enzymology		
1)		SGOT (serum glutamic oxalacetic transaminase)	3.00 C
2)		SGPT (serum glutamic pyruvic transaminase)	3.00 C
3)		LDH (lactic dehydrogenase)	3.00 C
4)		Alkaline Phosphatase	3.00 C
5)		Lipase	5.00 C
6)		Amylase	5.00 C
7)		Sorbitol dehydrogenase	5.00 C
8)		Arginose	5.00 C
~~9)~~		~~Trypsin-Fecal-Digestion~~	~~3.00 G~~
d)	Chemistry		
1)		Bilirubin--Total and Direct	10.00 C
		Total Only	5.00 C
		Direct Only	5.00 C

2)	Electrolytes (Ca, P, Mg, K, and Na)	12.00 C~~7-6~~
3)	Calcium	3.00 C, G
4)	Chloride	3.00 C
5)	Cholesterol, Total	3.00 C
6)	Creatinine	3.00 C
7)	Glucose	3.00 C
8)	Phosphorus	3.00 C, G
9)	Lactic Acid	3.00 C
10)	Potassium	3.00 C~~7-6~~
11)	Total Protein	3.00 C, G
12)	Albumin	3.00 C
13)	Sodium	3.00 C, G
14)	Blood Urea Nitrogen	3.00 C
15)	Uric Acid	3.00 C
16)	Zinc	3.00 C
17)	Magnesium	3.00 C
18)	Copper	3.00 C
19)	Iron	3.00 C
e) Other Tests		
1)	Calculi Analysis, Qualitative	10.00 C
2)	Semen Examination	10.00 C, G
3)	Cytology Transudate/Exudate	
	Cytology Examination Only	5.00 C, G
	Complete (i.e., Count, SG, TP, Sugar, Culture)	20.00~~15.00~~ C, G
4)	Spinal Fluid (Cytology, SG, TP)	10.00 C, G

(Source: Amended at 20 Ill. Reg. 256, effective JAN 1 1996)

Section 110.90 Microbiology Fees

The following are the fees for microbiology:

a) Bacteriology, Mycoplasma and Fungi		
1)	Aerobic or anaerobic culture without sensitivity testing	10.00 C, G
2)	Aerobic culture with sensitivity testing	15.00 C, G
3)	Clostridium perfringens serotyping	5.00 G
4)	Milk samples for mastitis evaluation	
	1-4 specimens	15.00 C, G
	(additional specimens, each at)	2.00 C, G
	Wisconsin mastitis test	
	1-10 specimens, each	2.00 C
	(additional specimens, each at)	1.00 C
5)	Leptospirosis--6 serotypes	
	Microtiter test-per specimen	2.00 C, G
6)	Canine brucellosis--per specimen	5.00 C, G, S
7)	Fluorescent Antibody Test (FA)	10.00 C, G
8)	Escherichia coli serotyping	3.00 C

9)	Campylobacter (culture)	4.00 C, G
10)	~~Salmonella-Serotyping~~	~~1.00 C~~
	Salmonella isolation using enrichment media	6.00 C, G
11)	Hemophilus (culture)	3.00 C, G
12)	Nasal Swabs--Bordetella	2.00 C, G
13)	Listeria (culture)	4.00 C, G
14)	Haemophilus equigenitalis (CEM)	4.00 C, G
15)	Spirochetes (swine dysentery--Treponema sp.)	3.00 C, G
16)	Johne's Bacillus (first specimen)	7.00 C, G
	(each additional specimen)	4.00 C, G
17)	Prepare and Supply Transport Media (per tube)	1.00 C, G
18)	Return culture for bacterin production per organism	2.00 C, G
19)	Mycology Testing	6.00 C, G
20)	Microscopic examination	3.00 C
21)	Mycoplasma Testing	6.00 C, G
22)	E. Coli or Metritis (1-4 specimens)	15.00 C, G
	(each additional specimen)	2.00 C, G
23)	Trichomonas transport media	4.00 C, G
b) Virology		
1)	Electron Microscopy--fecal	15.00 G
2)	Pseudorabies Serology (positive or negative)	no charge C, G
	Pseudorabies Serology Out-of-State	3.00 C, G
	Pseudorabies Serology (positive or negative) and end titer	3.00 C, G
	Pseudorabies Serology (request for screen at dilution of 1:2)	3.00 C, G
3)	Fluorescent Antibody Test (each disease)	10.00 C, G
4)	Rabies	5.00 C, G
5)	Virus Isolation in Cell Culture	
	(1 specimen)	15.00 C, G
	Each additional specimen	10.00 C, G
6)	Viral Serology (each disease)	
	(1-5 specimens, each)	3.00 C, G
	(Each additional specimen)	1.00 C, G
7)	Feline Leukemia Virus	10.00 C
8)	Feline Infectious Peritonitis (F.I.P.)	5.00 C
9)	Canine parvo-virus (ELISA) fecal	5.00 C, G
10)	Canine parvo-virus serum	5.00 C
11)	Canine distemper on serum	5.00 C
12)	Rota-virus on fecal	10.00 C
13)	Semen testing (export)	10.00 C
14)	Swine enterovirus (8 serotypes)	12.00 C
15)	FeLV-FeLT	15.00 C
16)	Porcine fetal fluid IgG	3.00 G
17)	Feline lentivirus (FeLT)	10.00 C
18)	Encephalomyocarditis	
	(1-5 specimens, each)	3.00 C, G
	(Each additional specimen)	1.00 C, G

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

19) PRRS (screening 1:20)..... 2.00 G
PRRS end titer..... 4.00 C, G
c) Chlamydia Isolation in Cell Culture..... 15.00 C, G
d) Miscellaneous serology
1) Toxoplasmosis..... 5.00 C
2) EIA-AGID..... 2.50 S
3) Mare Immunological Pregnancy Test
(35-60 days post-service)..... 15.00 C
4) Aleutian Disease-Mink (immunoelectrophoresis)..... .20 S
5) Out-of-State brucellosis serology..... .50 C,G,S
6) Brucellosis testing other than bovine,
porcine and canine..... .50 C,G,S
7) Bluetongue (1-5 specimens, each)..... 3.00 C~~,S~~
(Each additional specimen)..... 2.00 C~~,S~~
8) Bovine leukosis (BLV-AGID) (1-5 specimens, each)..... 3.00 C, S
(Each additional specimen)..... 1.00 C, S
9) Vesicular stomatitis..... 3.00 C
10) Complement Fixation Serology
(1-5 specimens, each)..... 3.00 C
(Each additional specimen)..... 1.00 C
Note: The Complement Fixation Serology tests include testing for anaplasmosis, and chlamydia.

(Source: Amended at 20 Ill. Reg. 255, effective JAN 1 1996)

Section 110.120 Miscellaneous Fees

a) Swine health checks at slaughter facilities:
~~Reproductive and serology for sows~~
~~(1-5 head)..... 25.00~~
~~each additional animal..... 4.00~~
Market swine health check per head with a minimum
of 10 head ~~(12 head maximum)~~..... 5.00~~50.00~~
(Contact the Galesburg laboratory for information)
b) Water potability test (Coliform and Enterococcus--
Millipore Method and Nitrates)..... 8.00 C
c) Return of shipping container..... current postal rate C, G, S
d) Field trip by Department laboratory personnel
to take specimens..... 50.00 C, G
e) Cremation (Under 50 pounds)..... 50.00 G
50 pounds and above, each additional pound..... 1.00 G
f) Report of results by facsimile (FAX) (first page)..... 5.00 C, G, S
each additional page..... 1.00 C, G, S
g) Handling fee for sending specimens to
out-of-state laboratories..... 5.00 C, G, S
h) Lysine..... 40.00 C
i) Amino acids..... 100.00 C

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

j) Trihalomethanes (THM's)..... 75.00 C
k) Volatile Organic Compounds..... 300.00 C
l) Disposal Fee: (when lab tests have not been conducted, a
disposal fee will be charged in
addition to any cremation costs)
Under 50 pounds..... 5.00 C, G, S
50 pounds to 100 pounds..... 10.00 C, G, S
Over 100 pounds..... 15.00 C, G, S
m) Overnight shipping..... current postal rate C, G, S
n) Shipping containers..... current market price C, G, S

(Source: Amended at 20 Ill. Reg. 255, effective JAN 1 1996)

Section 110.140 Liquor Control Commission Fees

a) Visual adulteration..... 5.00 C
b) Visual adulteration and volume..... 10.00 C
c) Adulteration screen (proof, solids, total
acids, organic color, color insects, volume)..... 30.00 C
d) Adulteration screen and fusel oils..... 40.00 C

(Source: Added at 20 Ill. Reg. 255, effective JAN 1 1996)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Animal Welfare Act

2) Code Citation: 8 Ill. Adm. Code 25

3) Section Numbers: Adopted Action:

25.20	Amended
25.30	Amended
25.40	Amended
25.50	Amended
25.90	Amended
25.110	Amended
25.115	New Section
25.130	Amended
25.140	New Section

4) Statutory Authority: Animal Welfare Act [225 ILCS 605] and Illinois Diseased Animals Act [510 ILCS 50]

5) Effective Date of amendments: January 1, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this proposed amendment contain incorporations by reference? Yes

8) Date Filed in Agency's Principal Office: January 1, 1996

9) Notices of Proposal Published in Illinois Register: September 15, 1995, 19 Ill. Reg. 12750

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: Non-substantive editorial corrections were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? N/A

13) Will this amendment replace an emergency amendment in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of amendments: Cites to the Code of Federal Regulations have been updated to reflect the most current printed version of these documents. Due to reorganization within the Department, all references to "Division" have been changed to "Department".

In Section 25.20, amendments are made to clarify the storage of waste

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

materials in order to control vermin and insects. A clarification was also made to address drainage to comply with local zoning ordinances.

In Section 25.115, regulations are adopted concerning specific services provided by guard or sentry dogs regarding the care and services provided by such service (see P.A. 89-178, effective July 19, 1995). This includes those out-of-state businesses that provide such services for patrons in Illinois.

All references to "pound" are changed to "animal control facility" in accordance with P.A. 89-178, effective July 19, 1995 (Section 25.130).

The Department is adopting regulations in Section 25.140 regarding foster homes for animals including licensing and their activities in conjunction with licensed animal shelters operated by not-for-profit corporations (see P.A. 89-178, effective July 19, 1995).

16) Information and questions regarding this adopted amendment shall be directed to:

Debbie Wakefield
Illinois Department of Agriculture
State Fairgrounds
Springfield, IL 62794-9281
(217) 785-5713 or FAX: (217) 785-4505

The full text of Adopted Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 25
ANIMAL WELFARE ACT

Section
25.10 Definitions
25.15 Incorporations By Reference
25.20 Buildings and Premises
25.30 General Care of Animals
25.40 Dogs Brought into Illinois
25.50 Shipment of Mammals and Birds
25.60 Health of Animals at Time of Release
25.70 Department May Restrict The Sale of Animals
25.80 Quarantine
25.90 Records
25.100 Consent Statement and Inspection
25.110 Animals Prohibited from Sale
25.115 Guard and Sentry Dogs
25.120 Boarding and Training
25.130 Animal Control Facilities ~~Pounds~~ and Animal Shelters
25.140 Foster Homes

AUTHORITY: Implementing and authorized by the Animal Welfare Act [225 ILCS 605] and the Illinois Diseased Animals Act [510 ILCS 50].

SOURCE: Regulations Relating to the Animal Welfare Act, filed May 17, 1974, effective May 27, 1974; amended October 6, 1976, effective October 16, 1976; codified at 5 Ill. Reg. 10438; amended at 7 Ill. Reg. 1724, effective January 28, 1983; amended at 12 Ill. Reg. 8265, effective May 2, 1988; amended at 13 Ill. Reg. 3628, effective March 13, 1989; amended at 18 Ill. Reg. 14898, effective September 26, 1994; amended at 20 Ill. Reg. 1265, effective JAN 1 1996.

Section 25.20 Buildings and Premises

a) All buildings and premises shall be maintained in a sanitary condition and the licensee shall:
   1) Have covered, leak-proof containers available for storage of waste materials before disposal to control vermin and insects. Such containers shall be maintained in a sanitary condition ~~equipment available for proper storage or disposal of waste material to control vermin and insects~~.
   2) Dispose of dead animals in compliance with the Illinois Dead Animal Disposal Act [225 ILCS 610] and rules enacted pursuant to

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

that law (8 Ill. Adm. Code 85). Compliance with this State Law shall not exempt licensee from compliance with local ordinances.
   3) Take effective control measures to prevent infestation of animals and premises with external parasites and vermin.
   4) Provide water from a source having sufficient pressure to properly sanitize and clean kennels, runs, equipment, and utensils.
   5) Provide hand washing facilities.

b) All buildings shall be constructed so as to provide adequate shelter for the comfort of the animals and shall provide adequate facilities for separation of diseased animals to avoid exposure to healthy and salable animals.

c) Floors of buildings housing or displaying animals shall be of permanent construction to enable thorough cleaning and sanitizing. Dirt and unfinished wood floors are unacceptable. Cleaning shall be performed daily, or more often if necessary, to prevent any accumulation of debris, dirt or waste.

d) Cages shall be constructed of a material that is impervious to urine and water and able to withstand damage from gnawing and chewing.
   1) The cages must be cleaned and sanitized at least once daily, or more often if necessary.
   2) All empty cages shall be kept clean at all times.
   3) Cages shall be of sufficient size to allow the animal to comfortably stand, sit, or lie, and offer freedom of movement.
   4) An ambient temperature as defined in the rules for the Federal Animal Welfare Act (9 CFR 3.2; 1995 ~~1994~~) shall be maintained for warmblooded animals. In the case of coldblooded animals, the temperature that is compatible to the well-being of the species shall be maintained.

e) Runs shall be constructed of material of sufficient strength and design to confine the animal(s).
   1) They shall be kept in good repair and condition.
   2) For new construction or remodeling, the licensee shall provide runs surfaced with concrete or other impervious material.
   3) Surface of the run shall be designed to permit the surface to be cleaned and kept free from excessive accumulation of animal waste.
   4) Provisions must be made for adequate drainage, including gutters and discharge of any fluid or content into a sewer, septic tank or filter field, and shall comply with any local zoning.

f) Cages or aquariums for housing of small animals, birds, or fish shall provide space not less than 2 1/2 times the body volume of living creatures contained therein.

g) If animals are group-housed, they shall be maintained in compatible groups without overcrowding. No female dog or cat in estrus shall be placed in a pen with male animals, except for breeding purposes.

(Source: Amended at 20 Ill. Reg. 1265, effective

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

JAN 1 1996)

Section 25.30 General Care of Animals

a) All persons or establishments licensed under this Act shall comply with all Sections of the Humane Care for Animals Act [510 ILCS 70].
b) Sufficient clean water and fresh food shall be offered to each animal daily as prescribed in the rules for the Federal Animal Welfare Act (9 CFR 3.5 - 3.7; 1995 ~~1994~~). In the case of young animals, they shall be fed more than once daily. Reptiles, fish or amphibians shall be fed and cared for in accordance with the eating patterns and environmental conditions compatible with each individual species.
c) The licensee or his representative shall be present for general care and maintenance of the animals at least once daily.
d) Aquariums containing fish shall be kept in a clean healthful condition. Live algae shall not be considered an unhealthful condition. Any dead fish shall be removed from aquariums ~~daily~~.
e) Adult cats shall be provided with litter pans at all times. The pans shall be cleaned and sanitized at least once daily or more often if necessary.

(Source: Amended at 20 Ill. Reg. 205, effective JAN 1 1996)

Section 25.40 Dogs Brought into Illinois

a) Dogs of any age brought into Illinois shall be accompanied by an official health certificate issued within 30 days prior to entry, showing the age, sex, breed, and description of each animal; that the animals in shipment are free from visible evidence of communicable diseases; that they originated in an area not under quarantine because of rabies; and that all animals over 16 weeks of age have been vaccinated against rabies as set forth in Section 30.90 of the rules for the Illinois Animal Control Act (8 Ill. Adm. Code Part 30). A copy of the health certificate bearing the approval of the Animal Health Official of the state of origin shall be filed with the Department ~~Division~~.
b) "This rule shall not apply to dogs consigned to hospitals, pharmaceutical companies, or licensed research institutions for research or teaching, nor to performing dogs or dogs brought in for a limited period of time for exhibition or breeding purposes and kept under direct control while in Illinois."*
AGENCY NOTE* Quoted from Section 30.10 of the rules for the Animal Control Act (8 Ill. Adm. Code Part 30).

(Source: Amended at 20 Ill. Reg. 205, effective JAN 1 1996)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Section 25.50 Shipment of Mammals and Birds

a) Animals shall be transported in crates constructed of a smooth, durable material which is easily cleaned and shall:
   1) Have a solid floor which may have a false bottom above it.
   2) Be so constructed as prescribed in the rules for the Federal Animal Welfare Act (9 CFR 3.11 - 3.17; 1995 ~~1994~~) as to provide maximum safety for the particular animal or animals being transported.
   3) Have openings on 2 sides and the top to assure adequate ventilation.
b) In all cases, the crates shall be large enough to provide space for the animals to lie down in an extended position and to allow ease of movement when standing or turning around as prescribed in the rules for the Federal Animal Welfare Act (9 CFR 3.11 - 3.17; 1995) ~~1994~~. When the temperature is over 85° F., increased space shall be provided within reason.
c) The crates shall be cleaned before use for each trip.
d) Food and water containers shall be cleaned and sanitized before each trip.
e) If bedding is used it shall be clean, dry, and relatively dust-free.
f) Animals in transit for 4 or more hours shall be offered food 2 hours before loading and fresh water about 30 minutes before loading.
g) The person or persons responsible for the welfare of the animal or animals while in transit shall:
   1) Offer the animals food at least once each 24 hours, except that newly weaned young shall be offered suitable food at 4-hour intervals.
   2) Offer all animals water at 12-hour intervals at least, except that water shall be offered at 4-hour intervals when the temperature reaches 90° F.
   3) Clean the crate or crates at least every 24 hours and, if bedding is used, shall provide clean bedding.
   4) Inspect each animal at 4-hour intervals, or oftener.
h) No female obviously near parturition shall be transported.
i) Trucks transporting animals shall provide protection from the sun in hot weather, and protection from cold weather. Adequate ventilation shall be provided in hot weather, and the trucks shall be draft-free in cold weather. Provisions shall be made for warming an area carrying weaned young if the temperature falls below 50° F., and for unweaned young if the temperature falls below 65° F.

(Source: Amended at 20 Ill. Reg. 205, effective JAN 1 1996)

Section 25.90 Records

a) Record of each dog, cat or non-human primate sale shall be maintained

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

by the licensee for a minimum period of 12 months after date of sale or transfer of animal, and shall include the source of animal, date of sale, description and sex of animal sold, and the name and address of purchaser. Records of sales of small mammals, birds, and fish not required.

b) If record of prophylactic medication is used in advertisement or is furnished the purchaser or person acquiring an animal, specific information regarding type, amount, and date of prophylactic medication shall be kept by the licensee and shall become a part of the retail sales record.

c) The licensee or his representative shall furnish the purchaser a written statement at the time of sale. The statement shall show:
   1) Date of sale.
   2) Name, address, and telephone number of licensee.
   3) Name, address, and telephone number of purchaser.
   4) Breed and description of dog, cat or non-human primate.
   5) Prophylactic immunizations and dates administered.
   6) Internal parasite medication(s) and date(s) administered.
   7) Guarantee, if offered; if none, so state. ~~A)~~ This information may be recorded on Department ~~Division~~ Form PS-5 (Animal Welfare Release Statement), or on a similar form prepared by the licensee and approved in advance by the Department.

(Source: Amended at 20 Ill. Reg. 265, effective JAN 1 1996)

Section 25.110 Animals Prohibited from Sale

a) Licensees shall not offer skunks for sale as pets as prescribed in Section 3.25 of the Wildlife Code [520 ILCS 5/3.25].

b) Licensees shall not offer for sale those animals the ownership of which would constitute a violation of Section 1 of the Illinois Dangerous Animals Act [720 ILCS 585/1]. These include the following animals: lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarundi, hyena, bear, wolf or coyote, or any poisonous or life-threatening reptile. A life-threatening reptile is any member of the crocodilian family or any constricting snake six feet or over in length, such as boa, python, and anaconda.

c) Licensees shall not possess or offer for sale turtle or viable turtle eggs which would constitute a violation of Section 264 of the Public Health Service Act (42 U.S.C.A. 264; 1995 ~~1994~~), the rules for that Act (21 CFR 1240.62; 1995 ~~1994~~) and Section 3372 of the Lacey Act (16 U.S.C.A. 3372; 1995 ~~1994~~).

(Source: Amended at 20 Ill. Reg. 265, effective JAN 1 1996)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Section 25.115 Guard and Sentry Dogs

Guard and sentry dog services shall comply with all provisions of the Illinois Humane Care for Animals Act [510 ILCS 70] and the Illinois Animal Control Act [510 ILCS 5] relating to the care the animals receive when stationed at a point away from the licensed facility as well as at the facility. In addition to the general content of 510 ILCS 70 and 510 ILCS 5, the dog services shall comply specifically with the following:

a) Any animal utilized for guard or sentry dog purposes shall be immunized against distemper, hepatitis, leptospirosis, and parvovirus, and a current and valid certificate of these immunizations shall be retained on file at the facility. This is in addition to the mandatory rabies immunization as required pursuant to the Illinois Animal Control Act.

b) Any animal utilized or maintained as a guard or sentry dog shall be in a physically healthy condition by gross observation and free from any apparent disease or internal or external parasitic condition. Any animal that the Department has reasonable cause to believe is injured, sick, diseased, unwell, or malnourished or constitutes a danger to the public health and safety may be ordered to be removed from the premises and restricted from use until the animal is examined by a licensed veterinarian and provided the recommended treatment, if deemed to be necessary. A statement will be retained on file and be available for review by Department representatives. Any animal shall be restricted from use until a statement attesting to its satisfactory condition is received from the licensed veterinarian and such statement relayed to the Department. Every dog currently used as a guard dog or sentry dog shall be examined and certified for health within 90 days after the effective date of these regulations. Any new animal purchased or obtained before being stationed at any point shall be examined by a veterinarian and receive the necessary immunizations at least 72 hours before use as a guard or sentry animal.

c) All animals utilized for guard or sentry dog service shall have the proper current licenses and tags affixed to its collar, harness or other device and have a fluorescent medallion affixed to signify the animal as having such a designation and purpose.

d) No person shall keep, use, or maintain a guard dog or sentry dog on any premises unless a warning sign is posted in plain view at each gate or entrance to the premises. The signs shall include the message "WARNING: GUARD DOG ON PREMISES" in bold print and shall have the name of the guard dog service or other responsible person and a 24-hour emergency telephone number printed below the warning.

e) No person shall keep, use, or maintain a guard dog or sentry dog on any premises unless the dog is provided full access to an enclosed building, dog house, or similar shelter. If more than one animal is utilized for a guard or sentry dog at one location, each must be furnished adequate shelter. The shelter must:
   1) Be constructed in a manner to assure protection of the dog from

the elements.

2) Have a floor off the ground and be cleaned and maintained in a manner to assure the best possible sanitary condition.

3) Be of adequate size to accommodate the number and size of dogs required to utilize the prescribed housing. A shelter will be presumed to be of adequate size if the dog has freedom to sit, stand, and lie in comfort.

4) If the structure is not radiantly heated, it shall have a sufficient quantity of suitable bedding material such as hay, straw, cedar shavings, or the equivalent to provide insulation and protection against cold and dampness for comfort.

5) The shelter shall be placed in such location or protected to prevent wind and the other elements from injuring the contained animal's health.

f) No person shall keep, use or maintain a guard dog or sentry dog on any premises unless the dog has access to water at all times with ice not being considered as water, and:

1) if the water is kept in a container or pail, the water is kept in an area to prevent contamination and spillage and replaced with fresh water at least once each calendar day; or

2) if the water is provided by an automatic or demand device, the water supply to the device is on 24 hours each day.

g) No person shall keep, use, or maintain a guard dog or sentry dog on any premises unless the dog is provided sufficient quantities of dog food to maintain proper body weight and good general health. The food shall be kept in a suitable container within viewable range without the need to enter the premises but kept in an area to prevent tampering, contamination or spillage. Fresh food shall be placed in a clean container at least once each calendar day. Spoiled or contaminated food shall be disposed of in a proper manner.

h) Each guard dog service shall notify by mail the fire station and police station closest to the premises where the dog will be on duty, not more than 15 days before a dog is sent on an assignment, if the guard dog service knows it will be providing services at that time. If a guard dog service first becomes aware that a dog will be sent on an assignment less than 15 days before the guard dog service will be providing services, the guard dog service shall notify in person the fire station and police station closest to the premises where the dog will be on duty within 24 hours after becoming aware of the assignment. The local law enforcement agency and fire department shall maintain a file on these assignments, and each file shall contain a manned 24-hour emergency telephone number in the event the premises must be entered for police or fire reasons. If a pager number or answering device is used, a response shall be received within 30 minutes to comply with the manned telephone requirement. The local law enforcement agency and fire department shall make these files available to Department investigators and approved humane investigators on request.

i) Each guard dog or sentry dog shall, whenever the dog is kept on actual duty, be visited by a dog handler at least once daily to insure that the dog's physical condition, its surroundings, and its food and water supply are adequate as specified in this Section and if inadequate the dog handler shall do whatever may be necessary to correct or remedy the situation. The dog handler shall be either the owner of, or be employed by or under contract to, the guard dog or sentry dog service that placed the dog on assignment.

j) Whenever a dog subject to this Section is being transported anywhere, it shall be well secured in a humane manner as will reasonably prevent its possible escape. When animals are transported in crates or containers, the crates or containers must be constructed of nonabrasive wire or a smooth, durable material suitable for the animals. Crates and containers must be clean, adequately ventilated, contain sufficient space to allow the animals to turn around and provide maximum safety and protection to the animals. No guard dog or sentry dog shall be transported in the trunk of a car or on open bed trucks.

(Source: Added at 20 Ill. Reg. 255, effective JAN 1 1996)

Section 25.130 Animal Control Facilities~~-Pounds~~ and Animal Shelters

Persons licensed to operate Animal Control Facilities ~~Pounds~~ and Animal Shelters shall comply with the following rules in addition to the other rules already prescribed.

a) Licensee shall make a record of each animal received, including the date it was received, the source, and the eventual disposition.

b) Approved equipment as described in the Journal of the American Veterinary Medical Association, 930 North Meacham Road, Schaumburg, Illinois 60196 (January 15, 1993) shall be used for euthanasia.

c) Licensee shall accept any animal for which the person wishing to dispose of the animal is willing to sign an affidavit of ownership giving his name, address, telephone number, reasons for wishing to dispose of the animal, and description of the animal, including distinguishing marks and pertinent medical information, if any.

d) Any animal presented to an animal control facility ~~a-pound~~ or shelter in an injured, diseased, or ill condition shall be examined by and, if feasible, treated by a licensed veterinarian. If the veterinarian deems that, for humane reasons, the animal should be euthanized, his recommendations for euthanasia shall be followed.

e) Licensee operating an animal control facility ~~a--pound~~ for a municipality or other political subdivision shall, in a conspicuous place at the establishment, post the hours the facility will be open with an attendant on duty to release estrayed pets back to their owner. Any expense incurred during the period of impoundment shall be paid by the owner prior to release of the impounded animal.

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 20 Ill. Reg. 235; effective JAN 1 1996)

Section 25.140 Foster Homes

The licensed animal shelter shall be responsible for submission of the application and payment of the required fee prior to utilizing a designee as a foster home. The following requirements shall be complied with and will be the shelter's obligation:

a) No more than four animals (dogs or cats) shall be maintained at a foster home location at any one time.

b) The animals held at the foster home shall be afforded a clean environment and the home shall comply with all provisions of the Illinois Humane Care for Animals Act [510 ILCS 70].

c) The animals held for adoption shall be segregated from any personally owned pets.

d) Records for the animals shall be available for review by Department personnel upon request and shall be retained at the animal shelter for two years.

e) The foster home shall be accessible for general observation by Department personnel for compliance with sanitation and the quality of care being afforded the animals.

f) Any dog over four months of age shall be vaccinated for rabies and the certificate of vaccination will be transferred to the person adopting the dog.

g) No animals shall be released to an adoptive owner until provisions have been completed for spaying of females or neutering of males.

(Source: Added at 20 Ill. Reg. 235; effective JAN 1 1996)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Diseased Animals

2) Code Citation: 8 Ill. Adm. Code 85

3)

Section Numbers:	Adopted Action:
85.5	Amendment
85.10	Amendment
85.15	Amendment
85.20	Amendment
85.25	Amendment
85.30	Amendment
85.35	Amendment
85.45	Amendment
85.50	Amendment
85.75	Amendment
85.90	Amendment
85.95	Amendment
85.100	Amendment
85.105	Amendment
85.110	Amendment
85.115	Amendment
85.130	New Section

4) Statutory Authority: Illinois Diseased Animals Act [510 ILCS 50]; Section 6 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/6]; Livestock Auction Market Law [225 ILCS 640]; and Equine Infectious Anemia Control Act [510 ILCS 65].

5) Effective Date of amendments: January 1, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this proposed amendment contain incorporations by reference? Yes

8) Date Filed in Agency's Principal Office: January 1, 1996

9) Notices of Proposal Published in Illinois Register: September 15, 1995, 19 Ill. Reg. 12783

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? N/A

13) Will this amendment replace an emergency amendment in effect?

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Yes, published at 19 Ill. Reg. 10734, July 21, 1995 (Section 85.130).

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of amendments: Due to reorganization within the Department, all references to "Division" have been changed to "Department". Cites to the Code of Federal Regulations and Brucellosis Eradication Uniform Methods and Rules have been updated to the most current printed version of these documents. The name of the US Sanitation Monitored Herds is no longer being used by the industry, and the term U.S. S. Enteritidis is now used to designate poultry flocks participating in the National Poultry Improvement Plan (corrected in Section 85.115).

Methods of identification of livestock have been updated to include ear tags under identification that cannot be removed from livestock, and microchip identification has been added as breed associations are adopting this type of identification (Sections 85.30 and 85.35).

There was an outbreak of vesicular stomatitis (VS) in the southwest during the summer. As this is a highly contagious disease, the Department instituted emergency regulations restricting the movement of infected and exposed animals from areas where the disease has been confirmed. VS is a disease that reoccurs in the United States every several years. The Department is making the emergency regulations permanent, with the inclusion of the statement that VS must have been diagnosed within the past thirty days (Section 85.130).

16) Information and questions regarding this adopted amendment shall be directed to:

Name: Debbie Wakefield
Address: Illinois Department of Agriculture
State Fairgrounds, Springfield,
Illinois 62794-9281
Telephone: 217/785-5713 FAX: 217/785-4505

The full text of Adopted Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 85
DISEASED ANIMALS

Section
85.5 Definitions
85.7 Incorporation by Reference
85.10 Reportable Diseases
85.15 Truck Cleaning and Disinfection
85.20 Disposal of Sick, Diseased, or Crippled Animals at Stockyards
85.25 Sale of Livestock Quarantined Because of Disease
85.30 Identification Ear Tags for Livestock
85.35 Identification Tags Not to be Removed
85.40 Livestock for Immediate Slaughter Not to be Diverted En Route
85.45 Anthrax
85.50 Goats
85.55 Scrapie in Sheep
85.60 Bluetongue
85.65 Sheep Foot Rot (Repealed)
85.70 Cattle Scabies
85.75 Cattle Scabies--Additional Requirements on Cattle From Certain Designated Areas
85.80 Sheep
85.85 Diseased Animals
85.90 Copy of Health Certificate Shall Be Furnished
85.95 Requests for Permits
85.100 Consignments to Stockyards, Recognized Slaughtering Centers, or Marketing Centers
85.105 Obligation of Transportation Company and Truck Operators
85.110 Additional Requirements on Cattle From Designated States
85.115 Salmonella enteritidis serotype enteritidis
85.120 Cervidae
85.125 Ratites
85.130 Vesicular Stomatitis

AUTHORITY: Implementing and authorized by the Illinois Diseased Animals Act [510 ILCS 50]; Section 6 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/6]; Livestock Auction Market Law [225 ILCS 640]; and Equine Infectious Anemia Control Act [510 ILCS 65].

SOURCE: Regulations Relating to Diseased Animals, filed January 17, 1972, effective January 27, 1972; filed August 19, 1975, effective August 29, 1975; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, p. 12, effective June 15, 1978; amended at 3 Ill. Reg. 33, p. 337, effective

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

August 17, 1979; amended at 5 Ill. Reg. 724, effective January 2, 1981; codified at 5 Ill. Reg. 10456; amended at 7 Ill. Reg. 1746, effective January 28, 1983; amended at 8 Ill. Reg. 5925, effective April 23, 1984; amended at 9 Ill. Reg. 4489, effective March 22, 1985; amended at 9 Ill. Reg. 18411, effective November 19, 1985; amended at 10 Ill. Reg. 20464, effective January 1, 1987; amended at 12 Ill. Reg. 8283, effective May 2, 1988; amended at 13 Ill. Reg. 3642, effective March 13, 1989; amended at 14 Ill. Reg. 1919, effective January 19, 1990; amended at 14 Ill. Reg. 15313, effective September 10, 1990; amended at 16 Ill. Reg. 11756, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 14052, effective August 16, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 1850, effective January 24, 1994; emergency amendment at 19 Ill. Reg. 10734, effective July 10, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 278, effective JAN 1 1996.

Section 85.5 Definitions

Definitions for the rules of this Part are located in the general definitions Section (8 Ill. Adm. Code 20.1) and apply to the rules of this Part. The following definitions shall also apply to the rules of this Part:

"Accredited veterinarian" means a veterinarian who is licensed by the state in which he practices, is approved by the animal health authority of that state, and is accredited by the United States Department of Agriculture (9 CFR 160, 161 and 162; 1995 ~~1993~~).

~~"Division"--means--the--Division--of-Animal-Industries-of-the-Illinois Department--of--Agriculture,--State--Fairgrounds,--P.O.---Box---1928, Springfield,-Illinois-62794-928l.~~

"Recognized slaughtering center" means an establishment where slaughtering is conducted under Federal or State inspection.

(Source: Amended at 20 Ill. Reg. 278, effective JAN 1 1996)

Section 85.10 Reportable Diseases

a) Suspected cases of the following diseases shall be reported immediately to the Department:

anthrax
avian influenza
bluetongue
brucellosis -- bovine, swine, equine, and caprine
contagious equine metritis
equine infectious anemia
equine viral encephalitides
fowl typhoid
hog cholera

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Mycoplasma gallisepticum -- turkeys
Mycoplasma synoviae -- turkeys
Newcastle disease
paratuberculosis - (Johne's disease)
piroplasmosis
pseudorabies -- (Aujeszky's disease)
psittacosis - (ornithosis)
pullorum disease
rabies
salmonella enteritidis -- poultry
salmonella typhimurium -- poultry
scabies -- cattle and sheep
scrapie
tuberculosis -- bovine
vesicular conditions of any type
any contagious or infectious disease presently considered as "exotic", i.e., not known to exist in the United States

b) Any herd owner, flock owner, veterinarian or other person having knowledge of the disease, failing to report a suspect case of any of the above diseases immediately after discovery, or who is responsible for the spread of the disease, shall be subject to penalty as provided by law.

c) Reports of any of the above diseases shall be made to the Department ~~Division~~, telephone 217/782-4944.

(Source: Amended at 20 Ill. Reg. 278, effective JAN 1 1996)

Section 85.15 Truck Cleaning and Disinfection

Any truck or other conveyance in which diseased livestock is transported shall be cleaned and disinfected immediately after the diseased livestock is unloaded as prescribed in the Code of Federal Regulations (9 CFR 71.7, 71.10 - 71.12; 1995 ~~1993~~).

(Source: Amended at 20 Ill. Reg. 278, effective JAN 1 1996)

Section 85.20 Disposal of Sick, Diseased, or Crippled Animals at Stockyards

No person, firm, or corporation shall remove from any public stockyards any sick, diseased, or crippled animals for the purpose of producing meat to be sold for human consumption, except in cases where the Department ~~Division~~ releases such animals after antemortem inspection, provided that this restriction shall not apply to any recognized slaughtering center.

(Source: Amended at 20 Ill. Reg. 278, effective JAN 1 1996)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Section 85.25 Sale of Livestock Quarantined Because of Disease

Except as otherwise provided by statute and/or rule, the sale of livestock quarantined because of disease or exposure to disease is prohibited unless permission of the Department ~~Division~~ is first obtained. The Department ~~Division~~ will then prescribe the conditions under which such sale may be made. The factors that will be considered for sanctioning the sale of quarantined livestock include:

a) What disease is involved.
b) If a human health hazard is involved.
c) If the animals are infected or only exposed.
d) If adequate slaughtering plant facilities for handling, processing, cleaning and disinfecting are available.

(Source: Amended at 20 Ill. Reg. 278; effective JAN 1 1996)

Section 85.30 Identification Ear Tags for Livestock

a) All livestock, except purebred or crossbred animals registered with an approved registry association, tested for brucellosis and/or tuberculosis in the State of Illinois shall be identified by an ear tag placed in the right ear, which tag shall bear the prefix number "33," followed by 3 letters and then by 4 numbers, and on the reverse side shall bear the word "Illinois."
b) Purebred or crossbred animals registered with an approved registry association may be identified for test or vaccination by registration number, dam's registration number, microchip, or record association approved individual tattoo.

(Source: Amended at 20 Ill. Reg. 278, effective JAN 1 1996)

Section 85.35 Identification Tags Not to be Removed

No person shall remove identification tags, numbers, brands, ear tags, microchips, or market cattle identification program backtags from livestock to evade the provisions of the law.

(Source: Amended at 20 Ill. Reg. 278; effective JAN 1 1996)

Section 85.45 Anthrax

a) No anthrax vaccine shall be used within the State of Illinois unless the veterinarian has secured a permit from the Department ~~Division~~ for its use. Permits will be granted for the use of anthrax vaccine only in areas where the disease is known to exist or has been known to exist.
b) No anthrax vaccine shall be sold within the State of Illinois except to licensed veterinarians who have received a permit from the Department ~~Division~~ for the use of such vaccine on designated premises or within a specified area.
c) When any animals are vaccinated against anthrax, the premises and all animals thereon shall be placed under quarantine.

(Source: Amended at 20 Ill. Reg. 278; effective JAN 1 1996)

Section 85.50 Goats

a) Part A -- Brucellosis in Goats
   1) When a serologic test for brucellosis in goats discloses one or more reactors, the entire herd shall be placed under quarantine and the reactor(s) immediately isolated from the remainder of the herd, reactor tagged and branded, and slaughtered. After removal of the reactor(s), the entire herd shall be retested at time intervals and the number of times as requested by the Department ~~Division~~. The length of the quarantine period shall be determined by the Department ~~Division~~.
   2) All brucellosis agglutination blood tests of goats shall be made at an approved laboratory.
b) Part B -- Requirements for Establishing and Maintaining Certified Brucellosis-Free Herds of Goats
   1) General Requirements
      A) Certified brucellosis-free herd certificates, which shall be valid for one year, unless revoked in accordance with the procedures as adopted by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228) and as outlined for cattle certificate revocation in the Brucellosis Eradication Uniform Methods and Rules, effective May 6, 1992, amended February 2, 1993, and June 16, 1994, published by the United States Department of Agriculture, Animal and Plant Health Inspection Service, shall be issued by the Department ~~Division~~.
      B) Certificates shall be extended for a period of one year upon evidence of a negative herd retest and compliance with all requirements for maintenance of a certified brucellosis-free herd.
      C) A "herd" shall be considered as including all animals 6 months of age and over and shall consist of at least 5 animals.
      D) All animals in the herd shall be identified by registration number, individual tattoo, or ear tag.
      E) All official blood tests of goats shall be conducted at an

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

approved laboratory.

2) To Qualify for Certification
   A) Herds shall be certified upon completion of 2 consecutive negative complete herd tests not less than 10 nor more than 14 months apart.
   B) Animals classified as suspects, in herds that are otherwise negative, must be retested at 30-day intervals until their status has been determined. If the suspects are sold or otherwise disposed of before their status has been determined, the entire herd must be retested to achieve a negative herd status. If the suspects are classified as reactors upon retest, the herd is considered to be infected. Diseased goats may only be consigned directly to a slaughtering facility and must be accompanied by a "Permit for Movement, VS Form 1-27".
   C) If on the initial herd test, or as a result of any retests of animals in the herd, one or more reactors are disclosed, the entire herd shall be placed under quarantine and the reactor(s) immediately isolated from the remainder of the herd, reactor tagged and branded, and slaughtered. After removal of the reactor(s), the entire herd shall be retested at time intervals and the number of times as requested by the Department ~~Division~~. The length of the quarantine period shall be determined by the Department ~~Division~~.
3) To Qualify for Recertification
   A) A negative herd test conducted within 60 days prior to the anniversary date is required for continuous certification. Upon receipt of a negative herd test, the Department ~~Division~~ shall extend certification for 12 months from the anniversary date.
   B) If the annual test for recertification is conducted within 60 days following the anniversary date and all the animals are negative, certification will be restored and the certification period will be 12 months from the anniversary date.
   C) If the annual test for recertification is not conducted within 60 days following the anniversary date, certification is cancelled and recertification requirements are then the same as for initial certification.
   D) If suspects or reactors are disclosed on a recertification test, their disposition and herd retest requirements shall be the same as specified in Section 85.50(b)(2)(B) and (C).
   E) All official blood tests of goats shall be conducted at an approved laboratory.
4) Additions to Certified Brucellosis-Free Herds
   A) Animals originating from other certified herds may be added without tests.
   B) Animals originating from herds not certified may be added;

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

provided, they are negative to an official brucellosis test within 60 days prior to addition, are held in isolation from other members of the certified herd for a minimum period of 30 days and are retested and negative at the end of this isolation period.
   C) Purchased additions shall not receive new herd status for sale or exhibition purposes until they have been members of the herd for at least 30 days and are included in a complete herd retest.

c) Part C -- Requirements for Establishing and Maintaining Accredited Tuberculosis-Free Herds of Goats
   1) General Requirements
      A) Accredited tuberculosis-free herd certificates, which shall be valid for one year, unless revoked in accordance with the procedures outlined in the Bovine Tuberculosis Eradication Uniform Methods and Rules, effective ~~March 31, 1980, as amended~~ February 3, 1989, Part III B, Accredited Herd Plan for Dairy Goats, shall be issued by the Department ~~Division~~ (9 CFR 77.1 (1995 ~~1993~~)).
      B) Certificates may be extended for a period of one year upon evidence of a negative herd retest and compliance with all requirements for maintenance of an accredited tuberculosis-free herd.
      C) A "herd" shall be considered as including all animals 12 months of age and over and shall consist of at least 5 animals.
      D) All animals in the herd shall be identified by registration number, individual tattoo, or ear tag.
      E) All official tuberculin tests shall be conducted by an accredited veterinarian or a veterinarian in the employ of the Illinois Department of Agriculture or the United States Department of Agriculture.
   2) To Qualify for Accreditation
      A) Herds shall be accredited upon completion of 2 consecutive negative complete herd tests not less than 10 nor more than 14 months apart.
      B) If a reaction to the tuberculin test is disclosed, the veterinarian reading the test shall, within 24 hours, notify the Department ~~Division~~ by collect telephone call and make arrangements for a veterinarian trained in conducting the comparative-cervical test to retest the animal within 10 days of the original injection. If the animal is identified as a reactor as a result of the comparative-cervical test, personnel from either the Illinois Department of Agriculture or the United States Department of Agriculture will issue a quarantine, supervise disposition of animals, and conduct additional tests on members of the herd.
   3) To Qualify for Reaccreditation

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

A) A negative herd test conducted within 60 days prior to the anniversary date is required for continuous accreditation. Upon receipt of a negative herd test, the Department ~~Division~~ shall extend accreditation for 12 months from the anniversary date.

B) If the annual test for reaccreditation is conducted within 60 days following the anniversary date, certification will be restored and the accreditation period will be 12 months from the anniversary date.

C) If the annual test for reaccreditation is not conducted within 60 days following the anniversary date, accreditation is cancelled and reaccreditation requirements are then the same as for initial accreditation.

D) If a reaction to the tuberculin test is disclosed at the time of the reaccreditation test, the procedure outlined in Section 85.50(b)(2)(B) shall be followed.

4) Additions to Accredited Tuberculosis-Free Herds

A) Animals originating from other accredited herds may be added without tests.

B) Animals originating from herds not accredited may be added; provided, they are negative to an official test for tuberculosis within 60 days prior to addition and are retested and negative to an official tuberculin test not sooner than 60 days from the date the previous test was conducted.

C) Purchased additions shall not receive new herd status for sale or exhibition purposes until they have been members of the herd for at least 60 days and are included in a complete herd retest.

d) Part D - Other Contagious Diseases. All goats, including dairy goats, will not be allowed to be exhibited in Illinois and must be removed immediately from the exhibition area if showing signs of any of the following conditions:

1) Lesions of contagious ecthyma (sore mouth).
2) Active lesions of ringworm with resulting loss of hair.
3) Caseous lymphadenitis as evidenced by draining abscesses.

(Source: Amended at 20 Ill. Reg. 276, effective JAN 1 1996)

Section 85.75 Cattle Scabies -- Additional Requirements on Cattle from Certain Designated Areas

a) A prior permit must be obtained from the Department ~~Division~~ before cattle, except those consigned direct to slaughter, may enter Illinois from certain designated areas determined to have high incidence of cattle scabies. The Director of the Department shall have authority to specify the designated areas from which movement of cattle into

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Illinois will be restricted.

b) Cattle from such areas, except those consigned to a recognized exhibition and moved from Illinois following exhibition (county and State fairs, other State-supported exhibitions, and breed registry exhibitions); dairy cattle; or those consigned direct to slaughter, shall be dipped for cattle scabies within 10 days prior to entry or treated in accordance with the procedures as set forth in 9 CFR 73.12 (1995 ~~1993~~).

c) Each such animal shall be treated with a solution of approved acaricide and water or other method of treatment approved by the United States Department of Agriculture (9 CFR 73.10 and 73.12; 1995 ~~1993~~).

(Source: Amended at 20 Ill. Reg. 276, effective JAN 1 1996)

Section 85.90 Copy of Health Certificate Shall be Furnished

a) A copy of the certificate of health under which livestock is brought into the State of Illinois, bearing the approval or, if not approved, the disapproval of the Animal Health Official of the state of origin, shall be furnished the Department ~~Division~~.

b) No person shall change the names, numbers, words, or phrases upon an official health certificate or permit to evade the provisions of the law.

c) All official brucellosis tests of animals which are intended for interstate movement shall be made at an approved laboratory.

(Source: Amended at 20 Ill. Reg. 276, effective JAN 1 1996)

Section 85.95 Requests for Permits

a) Requests for entry permits shall be directed to the Department ~~Division~~ and shall set forth the following information: Name and address of Illinois consignee, number and kind of animals, origin of shipment, and if for cattle, the age, sex, and breed of the cattle.

b) Exhibition livestock health requirements may also be secured from the Department ~~Division~~.

(Source: Amended at 20 Ill. Reg. 276, effective JAN 1 1996)

Section 85.100 Consignments to Stockyards, Recognized Slaughtering Centers, or Marketing Centers

a) All out-of-state livestock consigned to a public stockyard, recognized slaughtering center, or marketing center shall be accompanied from

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

point of origin by a permit issued by the Department ~~Division~~, or by a consignment *issued by the owner or shipper of the livestock, designating the name of the owner or shipper, place of origin, public stockyard, recognized slaughtering center, or marketing center of destination, date of shipment, and number and description of* livestock.

b) *A copy of the consignment shall be held by the public stockyard, recognized slaughtering center, or marketing center for a period of not less than 6 months for inspection by legally authorized officials of the United States Department of Agriculture, and the Illinois Department of Agriculture, and other officials having police powers.* ~~(See Section 1 of the Livestock Auction Market Law (Ill. Rev. Stat. 1991, ch. 121 1/2, par. 200)~~ [225 ILCS 640/1].~~)~~

(Source: Amended at 20 Ill. Reg. 276, effective JAN 1 1996)

Section 85.105 Obligation of Transportation Company and Truck Operators

a) Before accepting any livestock or dogs for shipment into the State of Illinois or consigned to points within the State of Illinois, except to public stockyards, every person, transportation company, or truck operator shall require that a certificate of health OR permit, as required in the regulations of the Department, be furnished them to be attached to the consignment and accompany the livestock or dog to its destination. Such person, transportation company, or truck operator shall have the certificate of health OR permit in his or its possession at all times from the loading of such livestock to the delivery of the livestock at its destination, and available for inspection upon demand. Such consignment shall show date, names of consignor and consignee, number and description of animals, and shall accompany all animals consigned to public stockyards.

b) No livestock shall be diverted en route within the State. When severe weather conditions, closures for any reason of slaughter plants, stockyards or auction markets, or other extenuating circumstances arise and/or the welfare of the livestock being shipped warrants such, a special permit for diversion enroute shall be granted by the Department ~~Division~~.

(Source: Amended at 20 Ill. Reg. 276, effective JAN 1 1996)

Section 85.110 Additional Requirements on Cattle From Designated States

Female cattle, except those consigned direct to slaughter or calves under 6 months of age, entering Illinois for feeding purposes from states designated by the U. S. Department of Agriculture as Class B and Class C states under provisions of the Brucellosis Eradication Uniform Methods and Rules (May 6,

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

1992 as amended February 2, 1993 and June 16, 1994) as approved by the United States Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228) and the U.S. Department of Agriculture shall, in addition to present entry requirements now on file, be tagged in the right ear with an official ear tag identifying the cattle to the state of origin. The ear tag series shall be recorded on the official interstate health certificate, or on the owner-shipper statement. These official, uniformly numbered ear tags may be applied by anyone.

(Source: Amended at 20 Ill. Reg. 276, effective JAN 1 1996)

Section 85.115 Salmonella enteritidis serotype enteritidis

a) The United States Department of Agriculture has declared Salmonella enteritidis serotype enteritidis as a communicable disease in poultry. The rules pertaining to Salmonella enteritidis serotype enteritidis located at 9 CFR 82.30-82.36, 1995 ~~1993~~ are hereby adopted for the State of Illinois. The flocks affected by these regulations are those identified in 9 CFR 82.31.

b) All flocks found to be infected with Salmonella enteritidis serotype enteritidis shall be quarantined. The quarantine shall remain in effect until the flock has been depopulated and premises disinfected as prescribed in 9 CFR 82.32(c) or the entire flock is tested negative for Salmonella enteritidis serotype enteritidis in accordance with the provisions of 9 CFR 82.32(e).

c) Interstate movement of poultry, eggs, equipment and manure from infected or test flocks shall be as specified in 9 CFR 82.33. Intrastate movement requirements shall be the same as interstate movement requirements.

d) If a flock is determined to be an infected flock as defined in 9 CFR 82.32(c), the Department shall pay indemnity if State funds are available and all of the following conditions are met:

1) The infected flock is implicated through epidemiological evidence in a human disease outbreak;

2) The flock owner voluntarily agrees to depopulate with appropriate State indemnity;

3) The entire flock which is to be depopulated shall have originated from a flock that is classified "U.S. S. Enteritidis" ~~"U.S. Sanitation Monitored"~~ under the National Poultry Improvement Plan and Auxiliary Provisions (9 CFR 145 and 147, 1995 ~~1993~~);

4) The flock owner must have been feeding the infected flock in accordance with the provisions of the National Poultry Improvement Plan and Auxiliary Provisions (9 CFR 145.23(d), 1995 ~~1993~~);

5) The infected flock shall be slaughtered in accordance with 9 CFR 82.33(b). Proof of kill will be reported to the Department by the meat and poultry inspector of the slaughtering establishment

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

where the infected poultry is slaughtered;

6) The premises has been disinfected in accordance with 9 CFR 82.32(c); and

7) Replacement poultry shall be from flocks that are classified "U.S. S. Enteritidis" ~~"U.S.--Sanitation--Monitored"~~ under the National Poultry Improvement Plan and Auxiliary Provisions.

e) The amount of indemnity paid, based on the availability of State funds, shall be 75 percent of the fair market value and the health thereof at the time of slaughter, minus the salvage value. The following conditions shall be considered when determining the fair market value and health of the infected flock:

1) Initial purchase price of each bird;

2) Age of the bird and its egg production capabilities or value for producing progeny; and

3) Feed and veterinary medical production costs as justified by documentation by the flock owner in the form of sales receipts and veterinary bills.

f) The Department and the infected flock owner must agree upon the value of the poultry destroyed, and in the case as agreement cannot be made, indemnity will not be paid for the flock.

(Source: Amended at 20 Ill. Reg. 276, effective JAN 1 1996)

Section 85.130 Vesicular Stomatitis

All veterinarians issuing Certificates of Veterinary Inspection for livestock including equine, bovine, porcine, caprine, ovine, and cervidae transported into Illinois from any state with a confirmed diagnosis of vesicular stomatitis within the past 30 days must include the following statement on the Certificate of Veterinary Inspection: "Vesicular stomatitis has not been diagnosed within ten miles of the premises of origin within the past thirty days. I have examined the premises of origin and have found no signs of vesicular stomatitis."

(Source: Added at 20 Ill. Reg. 276, effective JAN 1 1996)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Equine Infectious Anemia Control

2) Code Citation: 8 Ill. Adm. Code 116

3) Section Numbers: Adopted Action:
116.40 New Section
116.50 New Section

4) Statutory Authority: Illinois Equine Infectious Anemia Control Act [510 ILCS 65]

5) Effective Date of amendments: January 1, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this proposed amendment contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: January 1, 1996

9) Notices of Proposal Published in Illinois Register: September 15, 1995, 19 Ill. Reg. 12798

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: In Section 116.40, the form "VS Form 1-27" has been corrected to read "an Equine Slaughter Certification (EIA2) form".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? N/A

13) Will this amendment replace an emergency amendment in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of amendments: A new Section (Section 116.40) is being added to govern the movement of equidae through sales and auction markets.

Field inspectors have been encountering cases where it is obvious that EIA test records have been altered to avoid having an animal tested. The most common alteration is changing the testing date. A regulation (Section 116.50) has been established to control this activity. Allowances have been made, however, for legitimate cases where a test record may need to be altered. This can occur if a veterinarian incorrectly records information on the test chart or if a change of owner's name is necessary due to the sale of an animal.

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding this adopted amendment shall be directed to:

Name: Debbie Wakefield
Address: Illinois Department of Agriculture
State Fairgrounds, Springfield,
Illinois 62794-9281
Telephone: 217/785-5713 FAX: 217/785-4505

The full text of Adopted Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 116
EQUINE INFECTIOUS ANEMIA CONTROL

Section
116.10 Testing of Illinois Equidae
116.20 Retesting of Reactors
116.30 Quarantining of Reactors
116.40 Movement of Equidae Through Livestock Sales and Livestock Auction Markets
116.50 Falsification of Records

AUTHORITY: Implementing and authorized by the Illinois Equine Infectious Anemia Control Act [510 ILCS 65].

SOURCE: Adopted at 18 Ill. Reg. 1861, effective January 24, 1994; amended at 20 Ill. Reg. 290, effective JAN 1 1996.

Section 116.40 Movement of Equidae Through Livestock Sales and Livestock Auction Markets

All equidae moving through sales or livestock auction markets or being hauled to sales or livestock auction markets must be accompanied by a negative test for equine infectious anemia within the past twelve months if over twelve months of age, unless the animal is consigned for immediate slaughter. Equidae consigned for immediate slaughter are not required to have a negative test for equine infectious anemia before arrival at the sale or auction but will be required to be sold with a mane tag indicating that the animal is for slaughter only, will have blood drawn for an equine infectious anemia test before leaving the sale or auction, and will only be allowed to leave the premises on an Equine Slaughter Certification (EIA2) form which must accompany the animal to slaughter. Immediate slaughter means the animal must be delivered to a slaughtering facility within ten days after purchase or possession. All equidae consigned for slaughter only must be kept separate and apart from all other tested equidae.

(Source: Added at 20 Ill. Reg. 290, effective JAN 1 1996)

Section 116.50 Falsification of Records

No person shall change the names, dates, description or phrases on an official certificate of veterinary inspection or equine infectious anemia test chart to evade the provisions of the law. The veterinarian who originally drew the

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

blood for an equine infectious anemia test may submit a corrected copy to the laboratory that conducted the test with that laboratory reissuing the official test report. This corrected copy must be clearly marked as a corrected copy.

(Source: Added at 20 Ill. Reg. 250, effective JAN 1 1996)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Dead Animal Disposal Act

2) Code Citation: 8 Ill. Adm. Code 90

3) Section Numbers: Adopted Action:
90.105 New Section
90.110 Amendment
90.120 Amendment

4) Statutory Authority: Illinois Dead Animal Disposal Act [225 ILCS 610]

5) Effective Date of amendments: January 1, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this proposed amendment contain incorporations by reference? Yes

8) Date Filed in Agency's Principal Office: January 1, 1996

9) Notices of Proposal Published in Illinois Register: September 15, 1995, 19 Ill. Reg. 12812

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: Technical corrections were made in Section 90.110(e)(1)(A)(i): "1 x 10(7) cm/sec. as defined in Section 651.0705" is corrected to read "1 x 10(-7) cm/sec. as defined in Section 651.0703". In Section 90.110(e)(1)(A)(ii), "lime" has been deleted.

In Section 90.110(e)(6)(A) after the first sentence, the following sentence was added: "Sawdust from treated wood products shall not be used in any composting processes under any circumstance." In the last sentence of this subsection, "shredded newspaper" has been deleted.

In Section 90.110(e)(6)(G), the following sentence was added to this subsection: "For the purpose of this subsection, the agronomic rate is the annual application rate of swine compost, either alone or in combination with other nutrient supplying materials, that is necessary to achieve a reasonable crop yield without exceeding crop nutrient requirements."

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment in effect? No

14) Are there any amendments pending on this Part? No

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of amendments: The Department is expanding existing composting regulations to include swine. Regulations have been developed regarding the conveyance of dead animals over the highways to a landfill by an owner or hired employee.

16) Information and questions regarding this adopted amendment shall be directed to:

Name: Debbie Wakefield
Address: Illinois Department of Agriculture
State Fairgrounds
Springfield, Illinois 62794-9281
Telephone: 217/785-5713 FAX: 217/785-4505

The full text of Adopted Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 90
ILLINOIS DEAD ANIMAL DISPOSAL ACT

Section
90.5 Definitions
90.10 Plant Facilities
90.20 Plant Premises
90.30 Annual Truck Permits (Repealed)
90.40 Truck Operator's Records (Repealed)
90.50 Odors and Insects Shall Be Controlled
90.60 Salmonella Control for Renderers and Blenders
90.70 Inspection of Premise (Repealed)
90.80 Identification of Receptacles
90.90 Records (Repealed)
90.100 Transportation and Transactions (Repealed)
90.105 Owner Transportation to Landfill
90.110 On-The-Farm Disposal
90.120 Collection Center
90.130 Disposal By Collection Center of Unusable Materials

AUTHORITY: Implementing and authorized by the Illinois Dead Animal Disposal Act [225 ILCS 610].

SOURCE: Regulations Relating to the Disposal of Dead Animals, filed January 17, 1972, effective January 27, 1972; filed December 6, 1972, effective December 16, 1972; codified at 5 Ill. Reg. 10458; amended at 7 Ill. Reg. 852, effective January 10, 1983; amended at 8 Ill. Reg. 5937, effective April 23, 1984; amended at 13 Ill. Reg. 3681, effective March 13, 1989; amended at 16 Ill. Reg. 11773, effective July 8, 1992; amended at 18 Ill. Reg. 14917, effective September 26, 1994; amended at 20 Ill. Reg. _____, effective JAN 1 1996.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

Section 90.105 Owner Transportation to Landfill

When an owner or person employed by the owner is transporting a dead animal to a landfill that is open and willing to accept animals, the following guidelines shall be followed:

a) The most direct route shall be utilized.

b) The bed of the vehicle transporting the animal shall have covering to prevent leakage to the road surface (e.g., plastic covering or

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

barrels).

c) The animal shall be covered during transport.

(Source: Added at 20 Ill. Reg. 204, effective JAN 1 1996)

Section 90.110 On-The-Farm Disposal

Persons disposing of animals, poultry, fish, or parts of bodies thereof, other than to a licensed renderer, shall comply with the following:

a) Disposal by Burning.
   1) No open burning will be permitted.
   2) Any disposal by burning must be performed with an incinerator that is in compliance with the Illinois Environmental Protection Act [415 ILCS 5].

b) Disposal by Burying.
   1) Burial shall be on the premises owned or operated by the owner of the dead animal.
      A) Location shall be in an area where runoff will not contaminate water supplies or allow leachate to discharge into streams, ponds or lakes.
         i) Dead animals shall not be buried less than 200 feet from a stream, private potable water supply well, or any other potable water supply source, except in accordance with Section 14.2(b) of the Illinois Environmental Protection Act.
         ii) Dead Animals shall not be buried within the applicable 200 or 400 foot minimum setback zone of an existing community water supply well as established pursuant to Section 14.2 of the Illinois Environmental Protection Act.
      B) Dead animals shall not be buried less than 200 feet from any existing residence not owned or occupied by the owner of the animal.
      C) No more than a ratio of one pound of dead animals per one square foot of surface area shall be buried on an annual basis. No more than 3,000 pounds of dead animals shall be buried in each site location, and the same site shall not be used more frequently than once every two years for burial purposes. There shall be no more than three ~~(3)~~ site locations within a radius of 120 feet.
   2) Burial depth shall be sufficient to provide at least a six-inch compacted soil cover over the uppermost part of the carcass. Precautions shall be taken to minimize soil erosion.
   3) The abdominal cavity of large carcasses shall be punctured to allow escape of putrefactive gasses.
   4) Lime or other chemical agent shall not be used to prevent decomposition.

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

   5) Precautions shall be taken at the site of burial necessary to prevent any disturbance by animal or mechanical means.
   6) Disease and nuisance vectors are to be minimized and controlled.
   7) Final cover or settling shall be limited to a 5% or less slope differential from the normal gradient of its general surroundings.
   8) Burial site locations shall be available for inspection by Department personnel during normal working hours.

c) Disposal of poultry by composting. Persons disposing of poultry by means of composting shall comply with the following requirements:
   1) The composter shall meet the following criteria:
      A) A roof shall cover the entire composting area.
      B) An impervious, weight-bearing foundation such as concrete shall be used.
      C) Rot-resistant building materials such as preservative-treated lumber shall be used.
      D) The composter shall consist of primary and secondary bins.
      E) The size of the composter shall be based on the farm's projected mortality rate of poultry, in which one pound of dead poultry per cubic foot of primary compost space per day is provided.
   2) Composting shall comply with the following guidelines:
      A) A mixture of one part dead poultry (by weight), one and one-half part poultry litter, and one-tenth part of straw shall be used. For example: 400 pounds of dead poultry will require 600 pounds of poultry litter and 40 pounds of straw.
      B) Layering shall be done in the following order, starting from the floor: (First layer) Straw, poultry litter, straw, birds, and poultry litter. Second and subsequent layers: straw, birds, and poultry litter.
      C) A 36-inch probe-type thermometer shall be inserted daily into the pile to check the temperature. Within two to four days, the temperature should peak between 135° F. and 150° F.
      D) Once the temperature begins to fall from the peak (normally 7 to 10 days), the material shall be removed to the secondary treatment bin.
      E) After 7 to 10 days in the secondary bin, the compost may be agronomically distributed over land under cultivation or reused in the composting process. For the purpose of this subsection, the agronomic rate is the annual application rate of poultry compost, either alone or in combination with other nutrient supplying materials, that is necessary to achieve a reasonable crop yield without exceeding crop nutrient requirements.
   3) The composted material may be substituted for up to one-half of the poultry litter and one-half of the straw.

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

d) Disposal of fish by composting. Persons disposing of fish by means of composting shall comply with the following requirements:
  1) The composter shall meet the following criteria:
    A) A roof shall cover the entire composting area.
    B) An impervious, weight-bearing foundation such as concrete shall be used.
    C) Rot-resistant building materials such as preservative-treated lumber shall be used.
  2) The base layer shall meet the following criteria:
    A) Use 6 to 12 inches thick of a bulking agent.
    B) Be no more than 6 to 8 feet wide, but as long as necessary to accommodate the day's supply of compost material.
  3) Composting shall meet the following guidelines:
    A) Composting layer shall consist of a mixture of one part fish, three parts bulking agent and one part recycled compost (if available) or bulking agent and shall be mixed prior to use in the composting layer. The mixing of the materials for the composting layer shall be done in a manner to prevent leakage (e.g., stock tank, bucket, mixing drum).
    B) The cover layer shall consist of two parts bulking agent and two parts recycled compost (if available) or two parts bulking agent and should reach a thickness of 6 to 12 inches.
    C) Layering shall be done in the following order starting from the concrete: base layer, composting layer (fish, bulking agent and recycled compost), and cover layer. The composting and cover layers are piled on top of the base layer to form a trapezoid no higher than 4 feet.
    D) Additions to the compost pile are done by adding new material to the end of the pile.
    E) A probe-type thermometer shall be inserted daily into the pile to check the temperature. The temperature should peak between 140° F. and 165° F. The material can be recycled after it has composted for at least 2 to 3 weeks, and its temperature has dropped to air temperature.
    F) After the temperature has dropped to air temperature (normally 2 to 3 weeks), the composted material may be used in the composting layer, or after one month, the composted material may be agronomically distributed over land under cultivation or reused in the cover layer. For the purpose of this subsection, the agronomic rate is the annual application rate of fish compost, either alone or in combination with other nutrient supplying materials, that is necessary to achieve a reasonable crop yield without exceeding crop nutrient requirements.

e) Disposal of swine by composting. Persons disposing of swine by means of composting shall comply with the following requirements:
  1) The composter shall be located entirely over impervious foundation materials.
    A) One of two foundations shall be used:
      i) impervious soil (permeability equal to or less than 1 x 10(-7) cm/sec. as defined in Section 651.0703 "Geotechnical considerations in waste facility siting", Agricultural Waste Management Field Handbook, Soil Conservation Service, U.S. Department of Agriculture, 1992). A 4 to 6 inch base of ungraded (varying particle size) field lime over the soil foundation is suggested as a runoff control measure.
      ii) an impervious, weight-bearing foundation such as concrete or asphalt.
  2) Surface water shall be diverted away from the composter.
  3) Location shall be in an area where runoff will not contaminate water supplies or allow leachate to discharge into streams, ponds or lakes.
    A) Composter shall not be constructed less than 200 feet from a stream, private potable water supply well, or any other potable water supply source, except in accordance with Section 14.2(b) of the Illinois Environmental Protection Act.
    B) Composter shall not be constructed within the applicable 200 or 400 foot minimum setback zone of an existing community water supply well as established pursuant to Section 14.2 of the Illinois Environmental Protection Act.
  4) The composter shall consist of primary and secondary bins. The size of the composter shall be based on the farm's projected mortality rate of swine during any three-month period. The primary and secondary bins shall each contain a minimum of 10 square feet of composting area for each 1000 pounds of carcass to be composted.
  5) The composter shall be constructed of permanent rot-resistant wall materials, such as preservative-treated wood, concrete, or precast concrete such as highway lane dividers. Each composter bin shall be three sides of a rectangle or square. One side of the bin shall be left open for loading, unloading and mixing the compost. In emergency situations, hay bales of 48 inches or greater in diameter may be used on a temporary basis in the above configuration of side walls.
  6) Composting shall comply with the following guidelines:
    A) Sawdust shall be the primary carbon source material. Sawdust from treated wood products shall not be used in any composting processes under any circumstance. Other carbon source materials may be used for no more than fifty percent (by volume) of the total carbon source, with sawdust making up the remaining fraction. When more than one carbon source material is used, sawdust shall be distributed by mixing throughout the secondary carbon source materials. Other

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

carbon source materials could include chopped straw or chopped corn cobs.

B) It is expected that sawdust will be required in the ratio of approximately one cubic foot of sawdust per ten pounds of carcass (3.7 cubic yards of sawdust per 1000 pounds of carcass). A supply of sawdust shall be stockpiled and maintained on the premises at all times when the composter is in operation.

C) Each compost bin shall have a layer of sawdust a minimum of 10 inches deep placed on the floor before the first carcass is placed in the bin. There shall be a minimum of 10 inches of sawdust between the carcass and each of the vertical walls of the bin. The carcass shall be covered with a minimum of 10 inches of sawdust. Sawdust shall be added to the pile as composting begins, daily or as frequently as needed to sustain a 10 inch cover of sawdust over all carcasses in the bin's uppermost layer.

D) A compost thermometer with a probe at least 36" long shall be obtained and used daily to measure the temperature of the compost in the middle of each bin. The compost temperature should reach 135 to 160 degrees F. (57 to 71 C.) and be recorded daily. Compost temperature indicates microbial activity and stage of composting process. The composting process shall be managed in such a way that the heating and decomposition can proceed to completion. If aerobic composting does not begin with 7 days, i.e., if temperatures do not rise above 135 F., the compost pile shall be turned and moisture content of the sawdust adjusted to allow the process to proceed. Temperature records shall be available for examination until the compost is disposed of as in subsection (G) below.

E) Sawdust and carcasses may be placed in the bin until the bin is full.

F) All compost from the primary bin shall be allowed to undergo a second composting phase as follows:

  i) When the temperature surrounding the last carcass placed in the composter drops below 130 degrees F. (typically up to three months after the last carcass addition), the compost in that bin shall be transferred to a second bin and allowed to reheat, through a second composting cycle. Moisture shall be added to the compost as needed to promote further composting activity.

  ii) Compost shall remain in the second bin for the duration of the secondary composting cycle (typically three months). Temperature of the compost shall be measured using the compost thermometer to monitor the composting process.

G) Finished compost shall be agronomically distributed over land under cultivation or reused in the composting process. Finished compost may be returned to the primary composting bin in the ratio of up to 50 percent finished compost to fresh sawdust. For the purpose of this subsection, the agronomic rate is the annual application rate of swine compost, either alone or in combination with other nutrient supplying materials, that is necessary to achieve a reasonable crop yield without exceeding crop nutrient requirements.

(Source: Amended at 20 Ill. Reg. 1294, effective JAN 1 1996)

Section 90.120 Collection Center

A collection center shall comply with the following requirements:

a) The location of a collection center shall be in compliance with local zoning ordinances before the Department will issue a license.

b) The collection center shall be covered by a metal roof or other permanent type structure. The building shall be equipped with louver-type ventilators which are so screened as to prevent rodents and other animals, birds, flies, and insects from entering.

c) Hot water or steam shall be provided to thoroughly clean the collection center premises.

d) The collection center equipment and premises shall be disinfected with a product approved by the United States Department of Agriculture (9 CFR 71.10 (1995) ~~(1994)~~). Incorporation by reference does not include any amendments or editions beyond the date specified and may be viewed and/or copied at the Department's Springfield office.

(Source: Amended at 20 Ill. Reg. 1294, effective JAN 1 1996)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Weights and Measures Act

2) Code Citation: 8 Ill. Adm. Code 600

3) Section Numbers: Adopted Action:
600.310 Amended

4) Statutory Authority: Section 8 of the Weights and Measures Act [225 ILCS 470/8]

5) Effective Date of amendments: January 1, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this proposed amendment contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: January 1, 1996

9) Notices of Proposal Published in Illinois Register: September 22, 1995, 19 Ill. Reg. 13121

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? N/A

13) Will this amendment replace an emergency amendment in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of amendments: Fees for the inspection and testing of weighing and measuring devices used in trade and commerce have not significantly increased since 1980. In order to recover more of the cost of device inspections to support this program, the Department is adopting regulations to increase fees.

16) Information and questions regarding this adopted amendment shall be directed to:
Name: Debbie Wakefield
Address: Illinois Department of Agriculture
State Fairgrounds, Springfield,
Illinois 62794-9281
Telephone: 217/785-5713 FAX: 217/785-4505

The full text of Adopted Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER p: WEIGHTS AND MEASURES

PART 600
WEIGHTS AND MEASURES ACT

SUBPART A: PACKAGING AND LABELING

Section
600.1 National Institute of Standards and Technology Handbook 130
600.10 Definitions (Repealed)
600.20 Application (Repealed)
600.30 Identity (Repealed)
600.40 Declaration of Identity: Nonconsumer Package (Repealed)
600.50 Declaration of Responsibility: Consumer and Nonconsumer Packages (Repealed)
600.60 Declaration of Quantity: Consumer Packages (Repealed)
600.70 Declaration of Quantity: Nonconsumer Packages (Repealed)
600.80 Prominence and Placement: Consumer Packages (Repealed)
600.90 Prominence and Placement: Nonconsumer Package (Repealed)
600.100 Requirements: Specific Consumer Commodities, Packages, Containers (Repealed)
600.110 Exemptions (Repealed)
600.120 Variations to be Allowed (Repealed)
600.130 Standards of Fill (Repealed)
600.140 Wholesale and Retail Exemption
600.150 Revocation of Conflicting Regulations (Repealed)
600.160 Tables: Weights and Measures Standards for Illinois

SUBPART B: ROOFING AND ROOFING MATERIALS

Section
600.250 Roofing and Roofing Materials Shall Be Sold Either by the "Square" or by the "Square Yard." (Repealed)

SUBPART C: WEIGHING AND MEASURING DEVICES: METERS -- SCALES -- FEES

Section
600.300 Vehicle Scales Regulation
600.310 Fees
600.320 Scales Used for the Enforcement of Highway Weight Laws

SUBPART D: MOISTURE METER TESTING

Section
600.350 General (Repealed)

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

600.360 Testing and Inspection (Repealed)
600.370 Rejected Moisture Testing Devices (Repealed)
600.380 Use of Moisture Measuring Devices (Repealed)

SUBPART E: REGISTRATION OF SERVICE AGENCIES, SERVICEMEN, AND SPECIAL SEALERS FOR COMMERCIAL WEIGHING AND MEASURING DEVICES

Section
600.450 Policy (Repealed)
600.460 Definitions (Repealed)
600.470 Certificate of Registration (Repealed)
600.480 Types of Certificates (Repealed)
600.490 Examinations (Repealed)
600.500 Exemptions (Repealed)
600.510 Registration Fee (Repealed)
600.520 Reports (Repealed)
600.530 Bonds (Repealed)
600.540 Standards and Testing Equipment (Repealed)
600.550 Revocation of Certificate of Registration (Repealed)
600.560 Publication of Lists (Repealed)

SUBPART F: LIQUID PETROLEUM MEASURING DEVICES

Section
600.650 Use of Gasoline Pumps Which Are Not Capable of Computing the Prices Which Exceed 99.9¢ Per Gallon
600.660 Retail Liquid Petroleum Pumps Accurately Marked: Liters or Gallons
600.670 System Used to Sell Petroleum Product
600.680 Unit Price Per Gallon Displayed (Repealed)
600.690 Price of Gasoline
600.700 Unit Price Indicator: Set at One-Half Total Selling Price
600.710 Decals or Stickers Affixed to the Pump Face
600.720 Information Sign Indicating Half Gallon Pricing of Gasoline
600.730 Conversion Kits or Replacement Pumps: Deadline (Repealed)
600.740 Three-Wheel Computers Prohibited
600.750 One-Half Gallon Pricing Applicable to All Metering Pumps at Facility
600.760 Stop Use Order; Hearing

SUBPART G: ADVERTISEMENT OF THE PRICE OF LIQUID PETROLEUM PRODUCTS

Section
600.800 Price Per Gallon or Liter in Advertisement
600.810 Height and Width of Numbers
600.820 Advertised Price Complete
600.830 Advertising Other Commodities; Misleading Advertising Prohibited
600.840 Product Identity and Type of Service

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

600.850 Advertisement of Price Not Required Except on Pump
600.860 Stop Use Order; Hearing

TABLE A Minimum Height of Numbers and Letters (Repealed)
TABLE B Standard Weight Per Bushel for Agricultural Commodities
TABLE C Illinois Standard Weights and Measures
TABLE D Equivalents: Cubic Inches in U.S. Standard Capacity Measures
TABLE E Weights of Coal Per Cubic Foot
TABLE F Equivalents to be used by Seller in Transposing Weights
TABLE G Measurement of Surfaces and Volumes

AUTHORITY: Implementing and authorized by Section 8 of the Weights and Measures Act [225 ILCS 470/8].

SOURCE: Rules and Regulations Relating to the Weights and Measures Act, filed December 17, 1969, effective January 1, 1970; amended November 5, 1971, effective November 15, 1971; amended August 26, 1975, effective September 4, 1975; amended March 22, 1976, effective April 1, 1976; amended at 3 Ill. Reg. 45, p. 72, effective October 29, 1979; amended at 3 Ill. Reg. 45, p. 81, effective January 1, 1980; codified at 5 Ill. Reg. 10562, effective October 1, 1981; amended at 12 Ill. Reg. 8306, effective May 3, 1988; amended at 12 Ill. Reg. 15524, effective September 20, 1988; emergency amendment at 18 Ill. Reg. 4426, effective March 7, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14692, effective September 13, 1994; amended at 19 Ill. Reg. 8114, effective June 7, 1995; amended at 20 Ill. Reg. 303, effective JAN 1 1996.

SUBPART C: WEIGHTING AND MEASURING DEVICES: METERS -- SCALES -- FEES

Section 600.310 Fees

The Director of Agriculture and each city sealer of weights and measures shall collect and receive fees for the use of the State or city as the case may be at the following rates, which shall be due and payable at the time of such inspection. Per hour fee is charged for each hour or portion thereof.

a) Scales (by capacity, except for animal ~~(designed for weighing single head)~~, livestock, and railroad track, and belt conveyor scales)

1) 0 - 50~~00~~ pounds	January 1, 1996	$ 6.00	~~2.00~~
	January 1, 1998		8.00
	January 1, 2000		10.00
2) 51~~01~~ - 2000 pounds		$ 25.00	~~7.50~~
3) 2001 --~~10,000~~ pounds and over		$100.00	~~25.00~~
~~4) 10,001 pounds and over~~		~~$ 50.00~~	

b) Railroad Track Scales (per hour) $ 50.00 ~~10.00~~

c) Use of State Scale Trucks
(Charges to the repairman for use of state scale trucks and weights per

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

hour only during working hours) $100.00 ~~50.00~~
d) Belt Conveyor Scales (per hour) $50.00
e) ~~d)~~ Livestock Scales $100.00 ~~50.00~~
f) ~~e)~~ Motor Fuel Dispensers $ 10.00
~~1) Motor Fuel Pumps---------- $4.00~~
~~2) Blender Pumps---------- $7.50~~
~~3) Adjustment Insp. (Additional)---------- $6.00~~
g) ~~f)~~ Motor Fuel Meters (includes vehicle tank and stationary meters)
1) Meters to and including 2 3/4 in. ~~$20.00~~ 50.00
2) Meters greater than 2 3/4 in. ~~$50.00~~ 100.00
~~g) Calibration~~
~~1) Calibrating for capacity a vehicle tank for each 1,000 gallons or fraction thereof---------- $10.00~~
~~2) Calibrating Commercial Proving Devices per hour or portion thereof, minimum charge---------- $25.00~~
h) LPG Meters (Liquified Petroleum Gas-Liquid Measuring Devices) ~~$50.00~~ 75.00
i) Grain Moisture Measuring Devices ~~$15.00~~ 50.00
j) Laboratory Fee (per hour plus shipping) $75.00
~~1) Lab Charge $25.00 per hour or portion thereof, minimum charge---------- $25.00~~
~~2) Precision work per hour---------- $40.00~~

(Source: Amended at 20 Ill. Reg. 303, effective JAN 1 1996)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Pay Plan

2) Code Citation: 80 Ill. Adm. Code 310

3)

Section Numbers:	Adopted Action:
310.30	Amended
310.40	Amended
310.210	Amended
310.280	Amended
310.320	Amended
310.Appendix A, Table AA	New
310.Appendix A, Table J	Amended
310.Appendix A, Table O	Amended
310.Appendix A, Table P	Amended

4) Statutory Authority: Authorized by Section 8 and 8a of the Personnel Code and 20 ILCS 415/8 and 8a.

5) Effective Date of Rulemaking: December 22, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No. These amendments do not contain any incorporations by reference.

8) Date Filed in Agency's Principal Office: December 22, 1995

9) Notice of Proposal Published in Illinois Register: September 1, 1995, Issue #35, 19 Ill. Reg. 12365

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: In Section 310.30, Jurisdiction, the ILCS citation was corrected from "20 ILCS 415/8 and 8a" to "20 ILCS 415/4(c) or (d)".

In Section 310.40, Pay Schedules, the ILCS citation was changed back to what was in the original text which reads, "20 ILCS 415/8a".

In Section 310.210, Prevailing Rate, the ILCS citation was corrected from "20 ILCS 130/1" to "20 ILCS 130".

In Section 310.280, Designated Rate, the dollar signs were deleted. Also, in compliance with the recommendation of the Joint Committee on Administrative Rules, the annual salary for the Senior Public Service Administrator in the Department of State Police was rounded to the nearest dollar from "$85,152.96" to "$85,153".

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

In Section 310.320, Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections, the citation of the Personnel Code was corrected from "Section 8a(2)" to "Sections 8 and 8a".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: In Sections 310.30, 310.40, 310.210 and 310.320, the Personnel Code and ILCS citations were revised to reflect the appropriate citation. The obsolete Illinois Revised Statutes citation was deleted.

In Section 310.280, Designated Rate, a review of the personnel record system indicated that certain positions were no longer being utilized in the Designated Rate Section due to vacant positions or title changes, such as the establishment of the Public Service Administrator and the Senior Public Service Administrator in the Pay Plan. These obsolete positions were deleted from the Designated Rate Section.

The following updates reflect changes already approved by the Governor in Section 310.280:

In the Department of Children and Family Services, a Private Secretary II position was added with the annual salary of $43,452.

In the Department of Commerce and Community Affairs, the Economic Development Representative Specialist title was replaced by the Public Service Administrator with the annual salary of $63,432. The Public Information Officer IV's annual salary was amended to reflect a rate of $50,508.

Effective July 1, 1995, the agency name for the Department of Conservation was changed to the Department of Natural Resources. A Public Service Administrator position was included with the annual salary of $72,000, effective July 1, 1995.

In the Department of Insurance, the Insurance Program Executive title was replaced by the Senior Public Service Administrator with the annual salary of $90,648.

In the Department of Mental Health and Developmental Disabilities, a Medical Administrator I - Option D position was included with the annual salary of $131,250.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

In the Department of State Police, a Senior Public Service Administrator was included with the annual salary of $85,153, for the only non-sworn Deputy Director of that agency.

In Section 310.Table J, RC-014 (Clerical Employees, AFSCME), the titles of Telecommunicator Call Taker and Telecommunicator Lead Call Taker were added with the monthly salaries of $1,967.00 - 2,609.00 and $2,153.00 - 2,884.00, respectively.

Also, the Safety Responsibility Analyst I and II titles were reclassified to the Safety Responsibility Analyst with the monthly salary of $1,885.00 - 2,559.00, effective July 1, 1995.

In Section 310.Table O, RC-028 (Paraprofessional Human Service Employees, AFSCME), the Apparel Dry Goods Specialist III title received a one-grade increase on January 1, 1995. A revision was made for the July 1, 1996 salary for this class to reflect the grade change.

Also in Table O, the Crime Scene Technician title was reclassified to Crime Scene Investigator, effective July 19, 1995, with the salary remaining the same.

In Section 310.Table P, RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE), the retroactive salary for the Police Officer III title was negotiated for July 1, 1994 with the monthly range of $2,870.00 - 3,809.00

16) Information and questions regarding these adopted amendments shall be directed to:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, IL 62706
(217) 782-5601

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section
310.20 Policy and Responsibilities
310.30 Jurisdiction
310.40 Pay Schedules
310.50 Definitions
310.60 Conversion of Base Salary to Pay Period Units
310.70 Conversion of Base Salary to Daily or Hourly Equivalents
310.80 Increases in Pay
310.90 Decreases in Pay
310.100 Other Pay Provisions
310.110 Implementation of Pay Plan Changes for Fiscal Year 1996
310.120 Interpretation and Application of Pay Plan
310.130 Effective Date
310.140 Reinstitution of Within Grade Salary Increases
310.150 Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section
310.205 Introduction
310.210 Prevailing Rate
310.220 Negotiated Rate
310.230 Part-Time Daily or Hourly Special Services Rate
310.240 Hourly Rate
310.250 Member, Patient and Inmate Rate
310.260 Trainee Rate
310.270 Legislated and Contracted Rate
310.280 Designated Rate
310.290 Out-of-State or Foreign Service Rate
310.300 Educator Schedule for RC-063 and HR-010
310.310 Physician Specialist Rate
310.320 Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.330 Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section
310.410 Jurisdiction
310.420 Objectives
310.430 Responsibilities
310.440 Merit Compensation Salary Schedule
310.450 Procedures for Determining Annual Merit Increases
310.455 Intermittent Merit Increase
310.456 Merit Zone
310.460 Other Pay Increases
310.470 Adjustment
310.480 Decreases in Pay
310.490 Other Pay Provisions
310.495 Public Service Administrator Class Series
310.500 Definitions
310.510 Conversion of Base Salary to Pay Period Units
310.520 Conversion of Base Salary to Daily or Hourly Equivalents
310.530 Implementation
310.540 Annual Merit Increase Guidechart for Fiscal Year 1995
310.550 Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A Negotiated Rates of Pay
TABLE A HR-190 (Department of Central Management Services - State of Illinois Building - SEIU)
TABLE AA NR-916 (Department of Natural Resources, Teamsters)
TABLE B HR-200 (Department of Labor - Chicago, Illinois - SEIU)
TABLE C RC-069 (Firefighters, AFSCME)
TABLE D HR-001 (Teamsters Local #726)
TABLE E RC-020 (Teamsters Local #330)
TABLE F RC-019 (Teamsters Local #25)
TABLE G RC-045 (Automotive Mechanics, IFPE)
TABLE H RC-006 (Corrections Employees, AFSCME)
TABLE I RC-009 (Institutional Employees, AFSCME)
TABLE J RC-014 (Clerical Employees, AFSCME)
TABLE K RC-023 (Registered Nurses, INA)
TABLE L RC-008 (Boilermakers)
TABLE M RC-110 (Conservation Police Lodge)
TABLE N RC-010 (Professional Legal Unit, AFSCME)
TABLE O RC-028 (Paraprofessional Human Services Employees, AFSCME)
TABLE P RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
TABLE Q RC-033 (Meat Inspectors, IFPE)
TABLE R RC-042 (Residual Maintenance Workers, AFSCME)
TABLE S HR-012 (Fair Employment Practices Employees, SEIU)
TABLE T HR-010 (Teachers of Deaf, IFT)
TABLE U HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V CU-500 (Corrections, Meet and Confer Employees)
TABLE W RC-062 (Technical Employees, AFSCME)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TABLE X	RC-063 (Professional Employees, AFSCME)
TABLE Y	RC-063 (Educators, AFSCME)
TABLE Z	RC-063 (Physicians, AFSCME)
APPENDIX B	Schedule of Salary Grades - Monthly Rates of Pay for Fiscal Year 1996
APPENDIX C	Medical Administrator Rates for Fiscal Year 1995
APPENDIX D	Merit Compensation System Salary Schedule for Fiscal Year 1995
APPENDIX E	Teaching Salary Schedule (Repealed)
APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX G	Public Service Administrator Class Series Salary Schedule

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 1308, effective DEC 22 1995.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

SUBPART A: NARRATIVE

Section 310.30 Jurisdiction

All positions of employment in the service of the State of Illinois shall be subject to the provisions of this Part unless specifically excluded now, or hereafter, under Section 4(c) (General Exemptions) or Section 4(d) (Partial Exemptions) of the Personnel Code ~~(Ill. Rev. Stat. 1991, ch. 127, par. 63(b)101--et--seq.)~~ [20 ILCS 415/4(c) or (d)] or other pertinent legislation. Those positions to which jurisdiction of the Personnel Code has been or may be later extended shall also be subject to the provisions of this Part.

(Source: Amended at 20 Ill. Reg. 1308, effective DEC 22 1995)

Section 310.40 Pay Schedules

The attached Schedule of Salary Grades (Appendix B), Schedule of Rates (Subpart B), Medical Administrator Rates (Appendix C) and the Merit Compensation System (Subpart C) are hereby made a part of this Part. Each employee subject to this Part, except those whose rates of pay is determined under the Schedule of Rates (Subpart B) or the Merit Compensation System (Subpart C) of this Part, or Section 8a of the Personnel Code ~~(Ill. Rev. Stat. 1991, ch. 127, par. 63b108a)~~ [20 ILCS 415/8a], shall be paid at a step in the appropriate salary grade in the Schedule of Salary Grades (Appendix B) for the class of position in which he/she is employed.

(Source: Amended at 20 Ill. Reg. 1308, effective DEC 22 1995)

SUBPART B: SCHEDULE OF RATES

Section 310.210 Prevailing Rate

The rate of pay for each class and locality certified as being correct by the Director of Labor and approved by the Director of Central Management Services; or, as established under the Prevailing Wage Act ~~(Ill. Rev. Stat. 1991, ch. 48, par. 39(s)-1)~~ [820 ILCS 130/1]. The following are prevailing rate classes:

Baker	Painter
Barber	Plasterer
Beautician	Plumber
Brickmason	Roofer
Carpenter	Sewage Plant Operator
Carpenter Foreman	Sign Hanger
Cement Finisher	Sign Hanger Foreman
Electrician	Sign Painter
Highway Construction	Sign Painter Helper

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Equipment Operator	Stationary Engineer
Laborer	Stationary Fireman
Laborer (Building)	Steamfitter
Machinist	Teacher of Barbering
Maintenance Worker	Teacher of Beauty Culture
(Power Plant)	Tinsmith
Motion Picture	Trades Tender
Operator	Water Plant Operator

(Source: Amended at 20 Ill. Reg. 388, effective DEC 2 2 1995)

Section 310.280 Designated Rate

The rate of pay for a specific position or class of positions where it is deemed desirable to exclude such from the other requirements of this Pay Plan shall be only as designated by the Governor.

Banks and Trust Commission

~~Technical Advisor V~~	Annual Salary
~~(Pos. No. 45255-50-92-400-00-01)~~	~~$75,000~~

Department of Central Management Services

~~Executive Press Photographer~~	Annual Salary
~~(Pos. No. 14000-37-05-000-00-36)~~	~~$31,096~~
~~Information System Specialist II~~	Annual Salary
~~(Pos. No. 21212-37-10-000-09-00)~~	~~$53,172~~

Department of Children & Family Services

Private Secretary II	Annual Salary
(Pos. No. 34202-16-00-000-03-30)	$43,452

Department of Commerce & Community Affairs

~~Commerce & Community Affairs Program Executive~~	Annual Salary
~~(Pos. No. 00400-42-00-070-00-01)~~	~~$74,160~~
~~Commerce & Community Affairs Program Executive~~	Annual Salary
~~(Pos. No. 00400-42-30-000-00-01)~~	~~$70,600~~
~~Commerce & Community Affairs Program Executive~~	Annual Salary
~~(Pos. No. 00400-42-40-000-00-01)~~	~~$71,104~~
~~Economic Development Representative Specialist~~	Annual Salary

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~(Pos. No. 12937-42-35-140-20-01)~~	~~$61,320~~
~~Executive IV (Pos. No. 13054-42-35-110-00-01)~~	Annual Salary ~~$62,000~~
~~Executive IV (Pos. No. 13054-42-25-200-00-01)~~	Annual Salary ~~61,440~~
Public Information Officer IV	Annual Salary
~~(Pos. No. 37004-42-00-000-40-02)~~	~~46,764~~
(Pos. No. 37004-42-00-073-10-01)	50,508
Public Service Administrator	Annual Salary
(Pos. No. 37015-42-35-140-20-01)	63,432

Department of Conservation

~~Administrative Assistant IV~~	Annual Salary
~~(Pos. No. 00504-12-00-000-40-02)~~	~~60,000~~
~~Executive III~~	Annual Salary
~~(Pos. No. 13053-12-31-600-00-01)~~	~~54,024~~
~~Executive V~~	Annual Salary
~~(Pos. No. 13055-12-33-000-00-01)~~	~~67,200~~

Department of Employment Security

~~Administrative Assistant IV~~	Annual Salary
~~(Pos. No. 00504-44-00-000-20-01)~~	~~60,000~~

Health Care Cost Containment Council

~~Executive V~~	Annual Salary
~~(Pos. No. 13055-50-72-000-00-01)~~	~~64,644~~

~~Illinois Arts Council~~

~~Executive Director of the Ill. Arts Council~~	Annual Salary
~~(Pos. No. 13060-50-90-000-00-01)~~	~~65,000~~

Department of Insurance

~~Deputy Director~~	Annual Salary
~~(Pos. No. 12200-14-00-000-00-01)~~	~~72,600~~
~~Insurance Program Executive~~	Annual Salary
~~Pos. No. 21676-14-30-000-00-01)~~	~~00,060~~

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Senior Public Service Administrator (Pos. No. 40070-14-30-000-00-01)	Annual Salary 90,648

Department of Mental Health and Developmental Disabilities

~~Executive IV~~ ~~(Pos. No. 13054-22-15-200-20-01)~~	~~Annual Salary~~ ~~60,504~~
Medical Administrator I, Option D (Pos. No. 26401-22-59-903-10-02)	Annual Salary 131,250
~~Pharmacy Services Manager~~ ~~(Pos. No. 32015-22-59-914-10-01)~~	~~Annual Salary~~ ~~45,000~~
~~Physical Therapist Administrator~~ ~~(Pos. No. 32150-22-69-230-70-01)~~	~~Annual Salary~~ ~~$55,548~~
~~Physician Administrator II~~ ~~(Pos. No. 32212-22-15-600-00-01)~~	~~Annual Salary~~ ~~90,000~~
Private Secretary II (Pos. No. 34202-22-15-000-00-01)	Annual Salary $41,004
~~Psychologist Administrator II~~ ~~Pos. No. 35617-22-38-141-00-01)~~	~~Annual Salary~~ ~~64,000~~

Department of Natural Resources

Public Service Administrator (Pos. No. 37015-12-14-220-00-01)	Annual Salary 72,000

~~Department of Public Aid~~

~~Executive IV~~ ~~(Pos. No. 35809-33-00-000-00-51)~~	~~Annual Salary~~ ~~61,600~~

Department of State Police

~~Deputy Director~~ ~~(Pos. No. 12200-21-00-000-00-01)~~	~~Annual Salary~~ ~~62,769~~
~~Executive V~~ ~~(Pos. No. 13855-21-00-000-40-01)~~	~~Annual Salary~~ ~~55,615~~
~~Executive V~~ ~~(Pos. No. 13855-21-50-050-00-01)~~	~~Annual Salary~~ ~~72,461.52~~
~~State Police Program Executive~~ ~~(Pos. No. 42250-21-00-510-00-01)~~	~~Annual Salary~~ ~~68,712~~
~~State Police Program Executive~~ ~~(Pos. No. 42250-21-10-000-00-01)~~	~~Annual Salary~~ ~~76,719~~
~~Technical Advisor IV~~ ~~(Pos. No. 45254-21-00-220-10-01~~	~~Annual Salary~~ ~~76,000~~
Senior Public Service Administrator (Pos. No. 40070-21-10-000-00-01)	Annual Salary 85,153

(Source: Amended at 19 Ill. Reg. 308, effective DEC 22 1995)

Section 310.320 Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections

As provided in P.A. 83-0941 and subject to Sections 8 and ~~Section~~ 8a~~(2)~~ of the Personnel Code [20 ILCS 415/8 and 8a] ~~[111.-Rev.--Stat.--1991,--ch.--127,--par. 63b108a.2)-[20-ILCS-415/8a.2]~~, the State Board of Elections shall determine the annual compensation of its Executive Director and Assistant Executive Director consistent with the following:

Executive Director	Annual Salary Equivalent to Salary Range MC 15 as set forth in 310.Appendix D
Assistant Executive Director	Equivalent to Salary Range MC 13 as set forth in 310.Appendix D

(Source: Amended at 20 Ill. Reg. 308, effective DEC 22 1995)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 310.APPENDIX A Negotiated Rates of Pay

TABLE AA NR-916 (Department of Natural Resources, Teamsters)

	Effective June 21, 1995	
	Minimum Salary	Maximum Salary
Cartographer III	2535	4380
Civil Engineer I	2470	3710
Civil Engineer II	2630	4260
Civil Engineer III	2900	4745
Civil Engineer Trainee	2315	3155
Engineering Technician I	1390	2510
Engineering Technician II	1695	3010
Engineering Technician III	2075	3585
Engineering Technician IV	2550	4630
Technicial Manager I	1955	3380

(Source: Added at 20 Ill. Reg. 308; effective DEC 2 2 1995)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 310.TABLE J RC-014 (Clerical Employees, AFSCME)

Effective: July 1, 1994

		STEPS		
	1a a/	1	2	3
Account Clerk I	1447	1490	1540	1591
Account Clerk II	1546	1592	1647	1705
Account Technician I	1724	1776	1853	1920
Account Technician II	1885	1942	2024	2100
Administrative Services Worker Trainee	1324	1364	1401	1441
Aircraft Dispactcher	1885	1942	2024	2100
Aircraft Lead Dispactcher	2062	2124	2216	2309
Audio Visual Technician I	1495	1540	1592	1644
Audio Visual Technician II	1660	1710	1774	1843
Buyer Assistant	1724	1776	1853	1920
Check Issuance Machine Operator	1660	1710	1774	1843
Clerical Trainee	TR			
Communication Dispatcher	1660	1710	1774	1843
Communication Equipment Technician I	2373	2444	2561	2680
Communication Equipment Technician II	2637	2716	2561	2680
Communication Equipment Technician III	2786	2870	2854	2988
Court Reporter	2153	2218	2321	2422
Data Processing Assistant	1495	1540	1592	1644
Data Processing Operator	1399	1441	1490	1538
Data Processing Operator Trainee	1324	1364	1401	1441
Drafting Worker	1800	1854	1931	2002
Electronic Equipment Installer/ Repairer	1724	1776	1853	1920
Electronic Equipment Installer/ Repairer Leadworker	1885	1942	2024	2100
Electronics Technician	2153	2218	2321	2422
Emergency Response Lead Telecommunicator	1885	1942	2024	2100
Emergency Response Telecommunicator	1724	1776	1853	1920
Engineering Technician II	1967	2026	2112	2202
Engineering Technician III	2262	2330	2438	2549
Executive Secretary I	1800	1854	1931	2002
Graphic Arts Designer	2062	2124	2216	2309
Graphic Arts Technician	1885	1942	2024	2100
Industrial Commission Reporter	2262	2330	2438	2549
Industrial Commission Technician	1800	1854	1931	2002
Insurance Analyst I	1660	1710	1774	1843

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Insurance Analyst II	1885	1942	2024	2100
Insurance Analyst Trainee	1546	1592	1647	1705
Intermittent Clerk	8.15	8.39	8.62	8.87
Library Aide I	1360	1401	1441	1490
Library Aide II	1447	1490	1540	1591
Library Aide III	1546	1592	1647	1705
Library Technical Assistant	1724	1776	1853	1920
Licensing Quality Assurance Analyst	1660	1710	1774	1843
Microfilm Laboratory Technician I	1546	1592	1647	1705
Microfilm Laboratory Technician II	1660	1710	1774	1843
Microfilm Operator I	1399	1441	1490	1538
Microfilm Operator II	1495	1540	1592	1644
Microfilm Operator III	1599	1647	1710	1771
Office Aide	1324	1364	1401	1441
Office Assistant	1495	1540	1592	1644
Office Associate	1599	1647	1710	1771
Office Clerk	1399	1441	1490	1538
Office Coordinator	1660	1710	1774	1843
Photographer I	1800	1854	1931	2002
Photographer II	2062	2124	2216	2309
Photographer III	2153	2218	2321	2422
Photographic Technician I	1800	1854	1931	2002
Photographic Technician II	2062	2124	2216	2309
Photographic Technician III	2153	2218	2321	2422
Procurement Representative	1660	1710	1774	1843
Property & Supply Clerk I	1399	1441	1487	1535
Property & Supply Clerk II	1490	1535	1582	1640
Property Tax Examiner	1660	1710	1774	1843
Rehabilitation Case Coordinator I	1546	1592	1647	1705
Rehabilitation Case Coordinator II	1660	1710	1774	1843
Reproduction Service Technician I	1447	1490	1540	1591
Reproduction Service Technician II	1660	1710	1774	1843
Reproduction Service Technician III	1800	1854	1931	2002
Safety Responsibility Analyst I	1660	1710	1774	1843
Safety Responsibility Analyst II	1885	1942	2024	2100
Storekeeper I	1786	1840	1909	1986
Storekeeper II	1938	1996	2081	2162
Stores Clerk	1444	1487	1535	1581
Switchboard Operator I	1399	1441	1490	1538
Switchboard Operator II	1495	1540	1592	1644
Tax Examiner	1660	1710	1774	1843
Tax Examiner Trainee	1495	1540	1592	1644
Taxpayer Service Representative I	1495	1540	1592	1644
Taxpayer Service Representative II	1660	1710	1774	1843
Taxpayer Service Representative III	1885	1942	2024	2100
Telecommunications Field Advisor	2153	2218	2321	2422
Telecommunications Advisor Lead Worker	2373	2444	2561	2680

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Telecommunicator	1885	1942	2024	2100
Telecommunicator-Command Center	1967	2026	2112	2202
Telecommunicator Lead Worker	2062	2124	2216	2309
Telecommunicator Lead Worker-Command Center	2153	2218	2321	2422
Telecommunicator Trainee	1724	1776	1853	1920
Vehicle Permit Evaluator	1800	1854	1931	2002
Veterans Service Officer Associate	1800	1854	1931	2002

S T E P S (cont.)			
4	5	6	7
1642	1690	1710	1826
1763	1820	1881	1982
1993	2063	2138	2256
2187	2267	2353	2484
1489	1532	1574	1647
2187	2267	2353	2484
2412	2504	2601	2751
1700	1753	1810	1901
1909	1981	2049	2155
1993	2063	2138	2256
1909	1981	2049	2155
1909	1981	2049	2155
2792	2906	3024	3204
3126	3258	3395	3600
3305	3447	3589	3809
2521	2624	2722	2884
1700	1753	1810	1901
1582	1635	1680	1766
1489	1532	1574	1647
2084	2161	2235	2360
1993	2063	2138	2256
2187	2267	2353	2484
2521	2624	2722	2884
2187	2267	2353	2484
1993	2063	2138	2256
2291	2378	2469	2609
2655	2766	2877	3047
2084	2161	2235	2360
2412	2504	2601	2751
2187	2267	2353	2484
2655	2766	2877	3047
2084	2161	2235	2360
1909	1981	2049	2155
2187	2267	2353	2484
1763	1820	1881	1982
9.16	9.43	9.69	10.14
1535	1578	1623	1701

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

1642	1690	1740	1826
1763	1820	1881	1982
1993	2063	2138	2256
1909	1981	2049	2155
1763	1820	1881	1982
1909	1981	2049	2155
1582	1635	1680	1766
1700	1753	1810	1901
1838	1897	1962	2066
1489	1532	1574	1647
1700	1753	1810	1901
1838	1897	1962	2066
1582	1635	1680	1766
1909	1981	2049	2155
2084	2161	2235	2360
2412	2504	2601	2751
2521	2624	2722	2884
2084	2161	2235	2360
2412	2504	2601	2751
2521	2624	2722	2884
1909	1981	2049	2155
1580	1623	1674	1760
1689	1740	1795	1882
1909	1981	2049	2155
1763	1820	1881	1982
1909	1981	2049	2155
1642	1690	1740	1826
1909	1981	2049	2155
2084	2161	2235	2360
1909	1981	2049	2155
2187	2267	2353	2484
2055	2137	2206	2324
2250	2334	2412	2549
1632	1683	1731	1818
1582	1635	1680	1766
1700	1753	1810	1901
1909	1981	2049	2155
1700	1753	1810	1901
1700	1753	1810	1901
1909	1981	2049	2155
2187	2267	2353	2484
2521	2624	2722	2884
2792	2906	3024	3204
2187	2267	2353	2484
2291	2378	2469	2609
2412	2504	2601	2751
2521	2624	2722	2884
1993	2063	2138	2256

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

2084	2161	2235	2360
2084	2161	2235	2360

Effective: November 1, 1994

	STEPS			
	1a 1/	1	2	3
Telecommunicator Call Taker	1967	2026	2112	2202
Telecommunicator Lead Call Taker	2153	2218	2321	2422

	STEPS (cont.)			
	4	5	6	7
	2291	2378	2469	2609
	2521	2624	2722	2884

1/ Entry level step in first year of contract.

Effective July 1, 1995

	STEPS				
	1b 2/	1a	1	2	3
Account Clerk I	1447	1490	1535	1586	1639
Account Clerk II	1546	1592	1640	1696	1756
Account Technician I	1724	1776	1829	1909	1978
Account Technician II	1885	1942	2000	2085	2163
Administrative Services Worker Trainee	1324	1364	1405	1443	1484
Aircraft Dispatcher	1885	1942	2000	2085	2163
Aircraft Lead Dispatcher	2062	2124	2188	2282	2378
Audio Visual Technician I	1495	1540	1586	1640	1683
Audio Visual Technician II	1660	1710	1761	1827	1898
Buyer Assistant	1724	1776	1829	1909	1978
Check Issuance Machine Operator	1660	1710	1761	1827	1898
Clerical Trainee	TR				
Communication Dispatcher	1660	1710	1761	1827	1898
Communication Equipment Technician I	2373	2444	2517	2638	2760
Communication Equipment Technician II	2637	2716	2797	2940	3078
Communication Equipment Technician III	2786	2870	2956	3104	3250
Court Reporter	2153	2218	2285	2391	2495
Data Processing Assistant	1495	1540	1586	1640	1693
Data Processing Operator	1399	1441	1484	1535	1584
Data Processing Operator Trainee	1324	1364	1405	1443	1484
Drafting Worker	1800	1854	1910	1989	2062

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Electronic Equipment Installer/ Repairer	1724	1776	1829	1909	1978
Electronic Equipment Installer/ Repairer Leadworker	1885	1942	2000	2085	2163
Electronics Technician	2153	2218	2285	2391	2495
Emergency Response Lead Telecommunicator	1885	1942	2000	2085	2163
Emergency Response Telecommunicator	1724	1776	1829	1909	1978
Engineering Technician II	1967	2026	2087	2175	2268
Engineering Technician III	2262	2330	2400	2511	2625
Executive Secretary I	1800	1854	1910	1989	2062
Graphic Arts Designer	2062	2124	2188	2282	2378
Graphic Arts Technician	1885	1942	2000	2085	2163
Industrial Commission Reporter	2262	2330	2400	2511	2625
Industrial Commission Technician	1800	1854	1910	1989	2062
Insurance Analyst I	1660	1710	1761	1827	1898
Insurance Analyst II	1885	1942	2000	2085	2163
Insurance Analyst Trainee	1546	1592	1640	1696	1756
Intermittent Clerk	8.15	8.39	8.65	8.88	9.13
Library Aide I	1360	1401	1443	1484	1535
Library Aide II	1447	1490	1535	1586	1639
Library Technical Assistant	1724	1776	1829	1909	1978
~~Licensing Quality Assurance Analyst~~	~~1660~~	~~1710~~	~~1761~~	~~1827~~	~~1090~~
Microfilm Laboratory Technician I	1546	1592	1640	1696	1756
Microfilm Laboratory Technician II	1660	1710	1761	1827	1898
Microfilm Operator I	1399	1441	1484	1535	1584
Microfilm Operator II	1495	1540	1586	1640	1693
Microfilm Operator III	1599	1647	1696	1761	1824
Office Aide	1324	1364	1405	1443	1484
Office Assistant	1495	1540	1586	1640	1693
Office Associate	1599	1647	1696	1761	1824
Office Clerk	1399	1441	1484	1535	1584
Office Coordinator	1660	1710	1761	1827	1898
Photographer I	1800	1854	1910	1989	2062
Photographer II	2062	2124	2188	2282	2378
Photographer III	2153	2218	2285	2391	2495
Photographic Technician I	1800	1854	1910	1989	2062
Photographic Technician II	2062	2124	2188	2282	2378
Photogrpahic Technician III	2153	2218	2285	2391	2495
Procurement Representative	1660	1710	1761	1827	1898
Property & Supply Clerk I	1399	1441	1484	1532	1581
Property & Supply Clerk II	1490	1535	1581	1629	1689
Property Tax Examiner	1660	1710	1761	1827	1898
Rehabilitation Case Coordinator I	1546	1592	1640	1696	1756
Rehabilitation Case Coordinator II	1660	1710	1761	1827	1898
Reproduction Service Technician I	1447	1490	1535	1586	1639
Reproduction Service Technician II	1660	1710	1761	1827	1898

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Reproduction Service Technician III	1800	1854	1910	1989	2062
~~Safety Responsibility Analyst I~~	~~1660~~	~~1710~~	~~1761~~	~~1827~~	~~1707~~
~~Safety Responsibility Analyst II~~	~~1885~~	~~1942~~	~~2000~~	~~2085~~	~~2163~~
Safety Responsibility Analyst	1885	1942	2000	2085	2163
Storekeeper I	1786	1840	1895	1966	2046
Storekeeper II	1938	1996	2056	2143	2227
Stores Clerk	1444	1487	1532	1581	1628
Switchboard Operator I	1399	1441	1484	1535	1584
Switchboard Operator II	1495	1540	1586	1640	1693
Tax Examiner	1660	1710	1761	1827	1898
Tax Examiner Trainee	1495	1540	1586	1640	1693
Taxpayer Service Representative I	1495	1540	1586	1640	1693
Taxpayer Service Representative II	1660	1710	1761	1827	1898
Taxpayer Service Representative III	1885	1942	2000	2085	2163
Telecommunications Field Advisor	2153	2218	2285	2391	2495
Telecommunications Advisor Lead Worker	2373	2444	2517	2638	2760
Telecommunicator	1885	1942	2000	2085	2163
Telecommunicator-Command Center	1967	2026	2087	2175	2268
Telecommunicator Call Taker	1967	2026	2087	2175	2268
Telecommunicator Lead Call Taker	2153	2218	2285	2391	2495
Telecommunicator Lead Worker	2062	2124	2188	2282	2378
Telecommunicator Lead Worker-Command Center	2153	2218	2285	2391	2495
Telecommunicator Trainee	1724	1776	1829	1909	1978
Vehicle Permit Evaluator	1800	1854	1910	1989	2062
Veterans Service Officer Associate	1800	1854	1910	1989	2062

S T E P S (cont.)			
1691	1741	1792	1881
1816	1875	1937	2041
2053	2125	2202	2324
2253	2335	2424	2559
1534	1578	1621	1696
2253	2335	2424	2559
2484	2579	2679	2834
1751	1806	1864	1958
1966	2040	2110	2220
2053	2125	2202	2324
1966	2040	2110	2220
1966	2040	2110	2220
2876	2993	3115	3300
3220	3356	3497	3708
3404	3550	3697	3923
2597	2703	2804	2971
1751	1806	1864	1958
1629	1684	1730	1819
1534	1578	1621	1696

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

2147	2226	2302	2431
2053	2125	2202	2324
2253	2335	2424	2559
2597	2703	2804	2971
2253	2335	2424	2559
2053	2125	2202	2324
2360	2449	2543	2687
2735	2849	2963	3138
2147	2226	2302	2431
2484	2579	2679	2834
2253	2335	2424	2559
2735	2849	2963	3138
2147	2226	2302	2431
1966	2040	2110	2220
2253	2335	2424	2559
1816	1875	1937	2041
9.44	9.71	9.98	10.44
1581	1625	1672	1758
1691	1741	1792	1881
1816	1875	1937	2041
2053	2125	2202	2324
1966	2040	2110	2220
1816	1875	1937	2041
1966	2040	2110	2220
1629	1684	1730	1819
1751	1806	1864	1958
1893	1954	2021	2128
1534	1578	1621	1696
1751	1806	1864	1958
1893	1954	2021	2128
1629	1684	1730	1819
1966	2040	2110	2220
2147	2226	2302	2431
2484	2579	2679	2834
2597	2703	2804	2971
2147	2226	2302	2431
2484	2579	2679	2834
2597	2703	2804	2971
1966	2040	2110	2220
1627	1672	1724	1813
1740	1792	1849	1938
1966	2040	2110	2220
1816	1875	1937	2041
1966	2040	2110	2220
1691	1741	1792	1881
1966	2040	2110	2220
2147	2226	2302	2431
~~1966~~	~~2040~~	~~2110~~	~~2220~~

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~2253~~	~~2335~~	~~2424~~	~~2559~~
2253	2335	2424	2559
2117	2201	2272	2394
2318	2404	3484	2625
1681	1733	1783	1873
1629	1684	1730	1819
1751	1806	1864	1958
1966	2040	2110	2220
1751	1806	1864	1958
1751	1806	1864	1958
1966	2040	2110	2220
2253	2335	2424	2559
2597	2703	2804	2971
2876	2993	3115	3300
2253	2335	2424	2559
2360	2449	2543	2687
2360	2449	2543	2687
2597	2703	2804	2971
2484	2579	2649	2834
2597	2703	2804	2971
2053	2125	2202	2324
2147	2226	2302	2431
2147	2226	2302	2431

2/ Entry level step in second year of contract.

Effective: July 1, 1996

	STEPS					
	1c 3/	1b	1a	1	2	3
Account Clerk I	1447	1490	1535	1591	1634	1688
Account Clerk II	1546	1592	1640	1689	1747	1809
Account Technician I	1724	1776	1829	1884	1966	2037
Account Technician II	1885	1942	2000	2060	2148	2228
Administrative Services Worker Trainee	1324	1364	1405	1447	1486	1529
Aircraft Dispatcher	1885	1942	2000	2060	2148	2228
Aircraft Lead Dispatcher	2062	2124	2188	2254	2350	2449
Audio Visual Technician I	1495	1540	1586	1634	1689	1744
Audio Visual Technician II	1660	1710	1761	1814	1882	1955
Buyer Assistant	1724	1776	1829	1884	1966	2037
Check Issuance Machine Operator	1660	1710	1761	1814	1882	1955
Clerical Trainee	TR					
Communication Dispatcher	1660	1710	1761	1814	1882	1955
Communication Equipment Technician I	2373	2444	2517	2593	2717	2843
Communication Equipment Technician II	2637	2716	2797	2881	3028	3170
Communication Equipment	2786	2870	2956	3045	3197	3348

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Technician III						
Court Reporter	2153	2218	2285	2354	2463	2570
Data Processing Assistant	1495	1540	1586	1634	1689	1744
Data Processing Operator	1399	1441	1484	1529	1581	1632
Data Processing Operator Trainee	1324	1364	1405	1447	1486	1529
Drafting Worker	1800	1854	1910	1967	2049	2124
Electronic Equipment	1724	1776	1829	1884	1966	2037
Electronic Equipment	1885	1942	2000	2060	2148	2228
Installer/Repairer Leadworker						
Electronics Technician	2153	2218	2285	2354	2463	2570
Emergency Response Lead	1885	1942	2000	2060	2148	2228
Telecommunicator						
Emergency Response	1724	1776	1829	1884	1966	2037
Telecommunicator						
Engineering Technician II	1967	2026	2087	2150	2240	2336
Engineering Technician III	2262	2330	2400	2472	2586	2704
Executive Secretary I	1800	1854	1910	1967	2049	2124
Graphic Arts Designer	2062	2124	2188	2254	2350	2449
Graphic Arts Technician	1885	1942	2000	2060	2148	2228
Industrial Commission Reporter	2262	2330	2400	2472	2586	2704
Industrial Commission Technician	1800	1854	1910	1967	2049	2124
Insurance Analyst I	1660	1710	1761	1814	1882	1955
Insurance Analyst II	1885	1942	2000	2060	2148	2228
Insurance Analyst Trainee	1546	1592	1640	1689	1747	1809
Intermittent Clerk	8.15	8.39	8.65	8.90	9.14	9.41
Library Aide I	1360	1401	1443	1486	1529	1581
Library Aide II	1447	1490	1535	1581	1634	1688
Library Aide III	1546	1592	1640	1689	1747	1809
Library Technical Assistant	1724	1776	1829	1884	1966	2037
~~Licensing Quality Assurance~~						
~~Analyst~~	~~1660~~	~~1710~~	~~1761~~	~~1814~~	~~1882~~	~~1955~~
Microfilm Laboratory Technician I	1546	1592	1640	1689	1747	1809
Microfilm Laboratory Technician II	1660	1710	1761	1814	1882	1955
Microfilm Operator I	1399	1441	1484	1529	1581	1632
Microfilm Operator II	1495	1540	1586	1634	1689	1744
Microfilm Operator III	1599	1647	1696	1747	1814	1879
Office Aide	1324	1364	1405	1447	1486	1529
Office Assistant	1495	1540	1586	1634	1689	1744
Office Associate	1599	1647	1696	1747	1814	1879
Office Clerk	1399	1441	1484	1529	1581	1632
Office Coordinator	1660	1710	1761	1814	1882	1955
Photographer I	1800	1854	1910	1967	2049	2124
Photographer II	2062	2124	2188	2254	2350	2449
Photographer III	2153	2218	2285	2354	2463	2570
Photographic Technician I	1800	1854	1910	1967	2049	2124
Photographic Technician II	2062	2124	2188	2254	2350	2449
Photographic Technician III	2153	2218	2285	2354	2463	2570
Procurement Representative	1660	1710	1761	1814	1882	1955

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Property & Supply Clerk I	1399	1441	1484	1529	1578	1628
Property & Supply Clerk II	1490	1535	1581	1628	1678	1740
Property TAx Examiner	1660	1710	1761	1814	1882	1955
Rehabilitation Case Coordinator I	1546	1592	1640	1689	1747	1809
Rehabilitation Case Coordinator II	1660	1710	1761	1814	1882	1955
Reproduction Service Technician I	1447	1490	1535	1581	1634	1688
Reproduction Service Technician II	1660	1710	1761	1814	1882	1955
Reproduction Service Technician III	1800	1854	1910	1967	2049	2124
~~Safety-Responsibility-Analyst~~						
~~‡~~	~~1660~~	~~1710~~	~~1761~~	~~1814~~	~~1882~~	~~1955~~
~~Safety-Responsibility-Analyst~~						
~~‡‡~~	~~1885~~	~~1942~~	~~2000~~	~~2060~~	~~2148~~	~~2228~~
Safety Responsibility						
Analyst	1885	1942	2000	2060	2148	2228
Storekeeper I	1786	1840	1895	1952	2025	2107
Storekeeper II	1938	1996	2056	2118	2207	2294
Stores Clerk	1444	1487	1532	1578	1628	1677
Switchboard Operator I	1399	1441	1484	1529	1581	1632
Switchboard Operator II	1495	1540	1586	1634	1689	1744
Tax Examiner	1660	1710	1761	1814	1882	1955
Tax Examiner Trainee	1495	1540	1586	1634	1689	1744
Taxpayer Service Representative I	1495	1540	1586	1634	1689	1744
Taxpayer Service Representative II	1660	1710	1761	1814	1882	1955
Taxpayer Service Representative III	1885	1942	2000	2060	2148	2228
Telecommunications Field Advisor	2153	2218	2285	2354	2463	2570
Telecommunications Field Advisor	2373	2444	2517	2593	2717	2843
Lead Worker						
Telecommunicator	1885	1942	2000	2060	2148	2228
Telecommunicator-Command Center	1967	2026	2087	2150	2240	2336
Telecommunicator Call						
Taker	1967	2026	2087	2150	2240	2336
Telecommunicator Lead Call						
Taker	2153	2218	2285	2354	2463	2570
Telecommunicator Lead Worker	2062	2124	2188	2254	2350	2449
Telecommunicator Lead	2153	2218	2285	2354	2463	2570
Worker-Command Center						
Telecommunicator Trainee	1724	1776	1829	1884	1966	2037
Vehicle Permit Evaluator	1800	1854	1910	1967	2049	2124
Veterans Service Officer	1800	1854	1910	1967	2049	2124
Associate						

S T E P S (cont.)			
1742	1793	1846	1937
1870	1931	1995	2102
2115	2189	2268	2394
2321	2405	2497	2636
1580	1625	1670	1747
2321	2405	2497	2636

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

2559	2656	2759	2919
1804	1860	1920	2017
2025	2101	2173	2287
2115	2189	2268	2394
2025	2101	2173	2287
2025	2101	2173	2287
2962	3083	3208	3399
3317	3457	3602	3819
3506	3657	3808	4041
2675	2784	2888	3060
1804	1860	1920	2017
1678	1735	1782	1874
1580	1625	1670	1747
2211	2293	2371	2504
2115	2189	2268	2394
2321	2405	2497	2636
2675	2784	2888	3060
2321	2405	2497	2636
2115	2189	2268	2394
2431	2522	2619	2768
2817	2934	3052	3232
2211	2293	2371	2504
2559	2656	2759	2919
2321	2405	2497	2636
2817	2934	3052	3232
2211	2293	2371	2504
2025	2101	2173	2287
2321	2405	2497	2636
1870	1931	1995	2102
9.72	10.00	10.28	10.75
1628	1674	1722	1811
1742	1793	1846	1937
1870	1931	1995	2102
2115	2189	2268	2394
~~2025~~	~~2101~~	~~2173~~	~~2287~~
1870	1931	1995	2102
2025	2101	2173	2287
1678	1735	1782	1874
1804	1860	1920	2017
1950	2013	2082	2192
1580	1625	1670	1747
1804	1860	1920	2017
1950	2013	2082	2192
1678	1735	1782	1874
2025	2101	2173	2287
2211	2293	2371	2504
2559	2656	2759	2919
2675	2784	2888	3060

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

2211	2293	2371	2504
2559	2656	2759	2919
2675	2784	2888	3060
2025	2101	2173	2287
1676	1722	1776	1867
1792	1846	1904	1996
2025	2101	2173	2287
1870	1931	1995	2102
2025	2101	2173	2287
1742	1793	1846	1937
2025	2101	2173	2287
2211	2293	2371	2504
~~2025~~	~~2101~~	~~2173~~	~~2287~~
~~2321~~	~~2405~~	~~2497~~	~~2636~~
2321	2405	2497	2636
2181	2267	2340	2466
2388	2476	2559	2704
1731	1785	1836	1929
1678	1735	1782	1874
1804	1860	1920	2017
2025	2101	2173	2287
1804	1860	1920	2017
1804	1860	1920	2017
2025	2101	2173	2287
2321	2405	2497	2636
2675	2784	2888	3060
2962	3083	3208	3399
2321	2405	2497	2636
2431	2522	2619	2768
2431	2522	2619	2768
2675	2784	2888	3060
2559	2656	2759	2919
2675	2784	2888	3060
2115	2189	2268	2394
2211	2293	2371	2504
2211	2293	2371	2504

3/ Entry level step in third year of contract.

(Source: Amended at 20 Ill. Reg. 908, effective DEC 22 1995)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 310.TABLE O RC-028 (Paraprofessional Human Services Employees, AFSCME)

Effective: July 1, 1994

		S T E P S		
	1a 1/	1	2	3
Apparel Dry Goods Specialist III	1775	1828	1909	1982
Assistant Reimbursement Officer	1546	1592	1647	1705
Child Development Aide III	1724	1776	1853	1920
Clinical Laboratory Associate	1546	1592	1647	1705
Clinical Laboratory Technician I	1724	1776	1853	1920
Clinical Laboratory Technician II	1885	1942	2024	2100
Compliance Officer	2062	2124	2216	2309
Conservation Resource Technician I	1724	1776	1853	1920
Conservation Resource Technician II	1967	2026	2112	2202
Construction Supervisor I	1967	2026	2112	2202
Construction Supervisor II	2262	2330	2438	2549
Crime Scene Technician	2942	3030	3186	3340
Crime Studies Associate	1724	1776	1853	1920
Data Processing Administrative Specialist	2062	2124	2216	2309
Data Processing Specialist	1885	1942	2024	2100
Data Processing Technician	1660	1710	1774	1843
Data Processing Technician Trainee	1495	1540	1592	1644
Dental Assistant	1546	1592	1647	1705
Dental Hygienist	1885	1942	2024	2100
Electroencephalograph Technician	1599	1647	1710	1771
Environmental Equipment Operator I	1885	1942	2024	2100
Environmental Equipment Operator II	2062	2124	2216	2309
Environmental Protection Technician I	1599	1647	1710	1771
Environmental Protection Technician II	1724	1776	1853	1920
Hearing & Speech Technician I	1495	1540	1592	1644
Hearing & Speech Technician II	1660	1710	1774	1843
Historic Site Interpreter	1660	1710	1774	1843
Historic Site Lead I	1967	2026	2112	2202
Historic Site Lead II	2062	2124	2216	2309
Housekeeper II	1399	1441	1487	1535
Inhalation Therapist	1599	1647	1710	1771
Intermittent Unemployment Insurance Technician	9.20	9.48	9.80	10.12
Laboratory Assistant	1399	1441	1490	1538
Laboratory Associate I	1724	1776	1853	1920
Laboratory Associate II	1885	1942	2024	2100
Legal Research Assistant*	1967	2026	2112	2202
Licensed Practical Nurse I	1664	1714	1780	1850

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Licensed Practical Nurse II	1746	1798	1867	1942
Medical Records Assistant	1660	1710	1774	1843
Medical Records Technician	1800	1854	1931	2002
Office Administrative Specialist	1885	1942	2024	2100
Office Specialist	1800	1854	1931	2002
Pharmacist Lead Technician	1599	1647	1710	1771
Pharmacist Technician	1495	1540	1592	1644
Public Aid Eligibility Assistant	1599	1647	1710	1771
Radiologic Technologist	1800	1854	1931	2002
Radiologic Technologist Program Coordinator	1885	1942	2024	2100
Ranger	1967	2026	2112	2202
Rehabilitation Counselor Aide I	1660	1710	1774	1843
Rehabilitation Counselor Aide II	1800	1854	1931	2002
Senior Ranger	2062	2124	2216	2309
Site Technician I	1724	1776	1853	1920
Site Technician II	1885	1942	2024	2100
Social Service Community Planner	1800	1942	2024	2100
Statistical Research Technician	1800	1854	1931	2002
Veterans Service Officer	1885	1942	2024	2100
Vocational Instructor	1885	1942	2024	2100

	S T E P S (cont.)			
	4	5	6	7
	2056	2131	2206	2330
	1763	1820	1881	1982
	1993	2063	2138	2256
	1763	1820	1881	1982
	1993	2063	2138	2256
	2187	2267	2353	2484
	2412	2504	2601	2751
	1993	2063	2138	2256
	2291	2378	2469	2609
	2291	2378	2469	2609
	2655	2766	2877	3047
	3495	3654	3806	4043
	1993	2063	2138	2256
	2412	2504	2601	2751
	2187	2267	2353	2484
	1909	1981	2049	2155
	1700	1753	1810	1901
	1763	1820	1881	1982
	2187	2267	2353	2484
	1838	1897	1962	2066
	2187	2267	2353	2484
	2412	2504	2601	2751
	1838	1897	1962	2066
	1993	2063	2138	2256

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

1700	1753	1810	1901
1909	1981	2049	2155
1909	1981	2049	2155
2291	2378	2469	2609
2412	2504	2601	2751
1580	1623	1674	1760
1838	1897	1962	2066
10.[illegible]5	10.79	11.14	11.70
158[illegible]	1635	1680	1766
199[illegible]	2063	2138	2256
2187	2267	2353	2484
2[illegible]91	2378	2469	2609
1920	1994	2072	2176
2017	2094	2174	2285
1909	1981	2049	2155
2084	2161	2235	2360
2187	2267	2353	2484
2084	2161	2235	2360
1838	1897	1962	2066
1700	1753	1810	1901
1838	1897	1962	2066
2084	2161	2235	2360
2187	2267	2353	2484
2291	2378	2469	2609
1909	1981	2049	2155
2084	2161	2235	2360
2412	2504	2601	2751
1993	2063	2138	2256
2187	2267	2353	2484
2084	2161	2235	2360
2084	2161	2235	2360
2187	2267	2353	2484
2187	2267	2353	2484

Effective: January 1, 1995

	STEPS			
	1a 1/	1	2	3
Apparel Dry Goods Specialist III	1938	1996	2081	2162

	STEPS (cont.)			
	4	5	6	7
	2250	2334	2412	2549

Effective: April 1, 1995

	STEPS		
	1a 1/	1	2	3

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

State Police Evidence Technician I	1885	1942	2024	2100
State Police Evidence Technician II	1967	2026	2112	2202

4	5	6	7
2187	2267	2353	2484
2291	2378	2469	2609

1/Entry level step in first year of contract.

Effective: July 1, 1995

	STEPS				
	1b 2/	1a	1	2	3
Apparel Dry Goods Specialist III	1775	1828	1883	1966	2041
Assistant Reimbursement Officer	1546	1592	1640	1696	1756
Child Development Aide III	1724	1776	1829	1909	1978
Clinical Laboratory Associate	1546	1592	1640	1696	1756
Clinical Laboratory Technician I	1724	1776	1829	1909	1978
Clinical Laboratory Technician II	1885	1942	2000	2085	2163
Compliance Officer	2062	2124	2188	2282	2378
Conservation Resource Technician I	1724	1776	1829	1909	1978
Conservation Resource Technician II	1967	2026	2087	2175	2268
Construction Supervisor I	1967	2026	2087	2175	2268
Construction Supervisor II	2262	2330	2400	2511	2625
~~Crime-Scene-Technician~~	~~2942~~	~~3030~~	~~3121~~	~~3202~~	~~3440~~
Crime Studies Associate	1724	1776	1829	1909	1978
Data Processing Administrative Specialist	2062	2124	2188	2282	2378
Data Processing Specialist	1885	1942	2000	2085	2163
Data Processing Technician	1660	1710	1761	1827	1898
Data Processing Technician Trainee	1495	1540	1586	1640	1693
Dental Assistant	1546	1592	1640	1696	1756
Dental Hygienist	1885	1942	2000	2085	2163
Electroencephalograph Technician	1599	1647	1696	1761	1824
Environmental Equipment Operator I	1885	1942	2000	2085	2163
Environmental Equipment Operator II	2062	2124	2188	2282	2378
Environmental Protection Technician I	1599	1647	1696	1761	1824
Environmental Protection Technician II	1724	1776	1829	1909	1978
Hearing & Speech Technician I	1495	1540	1586	1640	1693
Hearing & Speech Technician II	1660	1710	1761	1827	1898
Historic Site Interpreter	1660	1710	1761	1827	1898
Historic Site Lead I	1967	2026	2087	2175	2268
Historic Site Lead II	2062	2124	2188	2282	2378
Housekeeper II	1399	1441	1484	1532	1581
Inhalation Therapist	1599	1647	1696	1761	1824
Intermittent Unemployment	9.20	9.48	9.76	10.09	10.42

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Insurance Technician					
Laboratory Assistant	1399	1441	1484	1535	1584
Laboratory Associate I	1724	1776	1829	1909	1978
Laboratory Associate II	1885	1942	2000	2085	2163
Legal Research Assistant*	1967	2026	2087	2175	2268
Licensed Practical Nurse I	1709	1760	1813	1880	1956
Licensed Practical Nurse II	1792	1846	1901	1985	2059
Medical Records Assistant	1660	1710	1761	1827	1966
Medical Records Technician	1800	1854	1910	1989	2062
Office Administrative Specialist	1885	1942	2000	2085	2163
Office Specialist	1800	1854	1910	1989	2062
Pharmacist Lead Technician	1599	1647	1696	1761	1824
Pharmacist Technician	1495	1540	1586	1640	1693
Public Aid Eligibility Assistant	1599	1647	1696	1761	1824
Radiologic Technologist	1800	1854	1910	1989	2062
Radiologic Technologist Program Coordinator	1885	1942	2000	2085	2163
Ranger	1967	2026	2087	2175	2268
Rehabilitation Counselor Aide I	1660	1710	1761	1827	1898
Rehabilitation Counselor Aide II	1800	1854	1910	1989	2062
Senior Ranger	2062	2124	2188	2282	2378
Site Technician I	1724	1776	1829	1909	1978
Site Technician II	1885	1942	2000	2085	2163
Social Service Community Planner	1800	1854	1910	1989	2062
State Police Evidence Technician I	1885	1942	2000	2085	2163
State Police Evidence Technician II	1967	2026	2087	2175	2268
Statistical Research Technician	1800	1854	1910	1989	2062
Veterans Service Officer	1885	1942	1000	2085	2163
Vocational Instructor	1885	1942	2000	2085	2163

S T E P S (cont.)			
4	5	6	7
2118	2195	2272	2400
1816	2195	2272	2400
2053	2125	2202	2324
1816	1875	1937	2041
2053	2125	2202	2324
2253	2335	2424	2559
2484	2579	2679	2834
2053	2125	2202	2324
2360	2449	2543	2687
2360	2449	2543	2687
2735	2849	2963	3138
~~3600~~	~~3764~~	~~3920~~	~~4164~~
2053	2125	2202	2324
2484	2579	2670	2834

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

2253	2335	2424	2559
1966	2040	2110	2220
1751	1806	1864	1958
1816	1875	1937	2041
2253	2335	2424	2559
1893	1954	2021	2128
2253	2335	2424	2559
2484	2579	2679	2834
1893	1954	2021	2128
2053	2125	2202	2324
1751	1806	1864	1958
1966	2040	2110	2220
1966	2040	2110	2220
2360	2449	2543	2687
2484	2579	2679	2834
1627	1672	1724	1813
1893	1954	2021	2128
10.78	11.11	11.47	12.05
1629	1684	1730	1819
2053	2125	2202	2324
2253	2335	2424	2559
2360	2449	2543	2687
2027	2107	2175	2291
2140	2218	2298	2446
1966	2040	2110	2220
2147	2226	2302	2431
2253	2335	2424	2559
2147	2226	2302	2431
1893	1954	2021	2128
1751	1805	1864	1958
1893	1954	2021	2128
2147	2226	2302	2431
2253	2335	2424	2559
2360	2449	2543	2687
1966	2040	2110	2220
2147	2226	2302	2431
2484	2579	2679	2834
2053	2125	2202	2324
2253	2335	2424	2559
2147	2226	2302	2431
2253	2335	2424	2559
2360	2449	2543	2687
2147	2226	2302	2431
2253	2335	2424	2559
2253	2335	2424	2559

2/Entry level step in second year of contract.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Effective July 19, 1995

	STEPS				
	1b 2/	1a	1	2	3
Crime Scene Investigator	2942	3030	3121	3282	3440

	STEPS (cont.)			
	4	5	6	7
Crime Scene Investigator	3600	3764	3920	4164

2/ Entry level step in second year of contract.

Effective: July 1, 1996

	STEPS					
	1c 3/	1b	1a	1	2	3
Apparel Dry Goods Specialist III	~~1775~~ 1938	~~1820~~ 1996	~~1883~~ 2056	~~1939~~ 2118	~~2025~~ 2207	~~2102~~ 2294
Assistant Reimbursement Officer	1546	1592	1640	1689	1747	1809
Child Development Aide III	1724	1776	1829	1884	1966	2037
Clinical Laboratory Associate	1546	1592	1640	1689	1747	1809
Clinical Laboratory Technician I	1724	1776	1829	1884	1966	2037
Clinical Laboratory Technician I	1885	1942	2000	2060	2148	2228
Clinical Laboratory Technician II	1885	1942	2000	2060	2148	2228
Compliance Officer	2062	2124	2188	2254	2350	2449
Conservation Resource Technician I	1724	1776	1829	1884	1966	2037
Conservation Resource Technician II	1967	2026	2087	2150	2240	2336
Construction Supervisor I Technician II	1967	2026	2087	2150	2240	2336
Construction Supervisor I	1967	2026	2087	2150	2240	2336
Construction Supervisor II	2262	2330	2400	2472	2586	2704
~~Crime-Scene Technician~~ Crime Scene Investigator	~~2942~~ 2942	~~3030~~ 3030	~~3121~~ 3121	~~3215~~ 3215	~~3380~~ 3380	~~3543~~ 3543
Crime Studies Associate	1724	1776	1829	1884	1966	2037
Data Processing Administrative Specialist	2062	2124	2188	2254	2350	2449
Data Processing Specialist	1885	1942	2000	2060	2148	2228
Data Processing Technician	1660	1710	1761	1814	1882	1955
Data Processing Technician Trainee	1495	1540	1586	1634	1689	1744

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Dental Assistant	1546	1592	1640	1689	1747	1809
Dental Hygienist	1885	1942	2000	2060	2148	2228
Electroencephalograph Technician	1599	1647	1696	1747	1814	1879
Environmental Equipment Operator I	1885	1942	2000	2060	2148	2228
Environmental Equipment Operator II	2062	2124	2188	2254	2350	2449
Environmental Protection Technician I	1724	1776	1829	1884	1966	2037
Environmental Protection Technician II	1724	1776	1829	1884	1966	2037
Hearing & Speech Technician I	1495	1540	1586	1634	1689	1744
Hearing & Speech Technician II	1660	1710	1761	1814	1882	1955
Historic Site Interpreter	1660	1710	1761	1814	1882	1955
Historic Site Lead I	1967	2026	2087	2150	2240	2336
Historic Site Lead II	2062	2124	2188	2254	2350	2449
Housekeeper II	1399	1441	1484	1529	1578	1628
Inhalation Therapist	1599	1647	1696	1747	1814	1879
Intermittent Unemployment Insurance Technician	9.20	9.48	9.76	10.06	10.39	10.73
Laboratory Assistant	1399	1441	1484	1529	1582	1632
Laboratory Associate I	1724	1776	1829	1884	1966	2037
Laboratory Associate II	1885	1942	2000	2060	2148	2228
Legal Research Assistant*	1967	2026	2087	2150	2240	2336
Licensed Practical Nurse I	1709	1760	1813	1867	1936	2015
Licensed Practical Nurse II	1792	1846	1901	1958	2045	2121
Medical Records Assistant	1660	1710	1761	1814	1882	1955
Medical Records Technician	1800	1854	1910	1967	2049	2124
Office Administrative Specialist	1885	1942	2000	2060	2148	2228
Office Specialist	1800	1854	1910	1967	2049	2124
Pharmacist Lead Technician	1599	1647	1696	1747	1814	1879
Pharmacist Technician	1495	1540	1586	1634	1689	1744
Public Aid Eligibility Assistant	1599	1647	1696	1747	1814	1879
Radiologic Technologist	1800	1854	1910	1967	2049	2124
Radiologic Technologist Program Coordinator	1885	1942	2000	2060	2148	2228
Ranger	1967	2026	2087	2150	2240	2336
Rehabilitation Counselor Aide I	1660	1710	1761	1814	1882	1955
Rehabilitation Counselor Aide II	1800	1854	1910	1967	2049	2124
Senior Ranger	2062	2124	2188	2254	2350	2449
Site Technician I	1724	1776	1829	1884	1966	2037
Site Technician II	1885	1942	2000	2060	2148	2228

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Social Service Community Planner	1800	1854	1910	1967	2049	2124
State Police Evidence Technician I	1885	1942	2000	2060	2148	2228
State Police Evidence Technician II	1967	2026	2087	2150	2240	2336
Statistical Research Technician	1800	1854	1910	1967	2049	2124
Veterans Service Officer	1885	1942	2000	2060	2148	2228
Vocational Instructor	1885	1942	2000	2060	2148	2228

S T E P S (cont.)			
4	5	6	7
~~2102~~	~~2261~~	~~2340~~	~~2472~~
2388	2476	2559	2704
1870	1931	1995	2102
2115	2189	2268	2394
1870	1931	1995	2102
2115	2189	2268	2394
2321	2405	2497	2636
2559	2656	2759	2919
2115	2189	2268	2394
2431	2522	2619	2768
2431	2522	2619	2768
2817	2934	3052	3232
~~3708~~	~~3877~~	~~4038~~	~~4289~~
3708	3877	4038	4289
2115	2189	2268	2394
2559	2656	2759	2919
1950	2013	2082	2192
2115	2189	2268	2394
1804	1860	1920	2017
1870	1931	1995	2102
2321	2405	2497	2636
1950	2013	2082	2192
2115	2189	2268	2394
1804	1860	1920	2017
2025	2101	2173	2287
2431	2522	2619	2768
2559	2656	2759	2919
1676	1722	1776	1867
1950	2013	2082	2192
11.10	11.45	11.82	12.41
1678	1735	1782	1874
2115	2189	2268	2394
2321	2405	2497	2636
2431	2522	2619	2768
2088	2170	2240	2360
2204	2285	2367	2519

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

2025	2101	2173	2287
2211	2293	2371	2504
2321	2405	2497	2636
2211	2293	2371	2504
1950	2013	2082	2192
1804	1860	1920	2017
1950	2013	2082	2192
2211	2293	2371	2504
2321	2405	2497	2636
2431	2522	2619	2768
2025	2101	2173	2287
2211	2293	2371	2504
2559	2656	2759	2919
2115	2189	2268	2394
2321	2405	2497	2636
2211	2293	2371	2504
2321	2405	2497	2636
2431	2522	2619	2768
2211	2293	2371	2504
2321	2405	2497	2636
2321	2405	2497	2636

3/Entry level step in third year of contract.

(Source: Amended at 20 Ill. Reg. [illegible], effective DEC 2 2 1995)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 310.TABLE P RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)

Effective: July 1, 1994

	STEPS						
	1	2	3	4	5	6	7
AGRICULTURAL PRODUCTS PROMOTER	1942	2024	2100	2187	2267	2353	2484
ANIMAL & ANIMAL PRODUCTS INVESTIGATOR	2124	2216	2309	2412	2504	2601	2751
APIARY INSPECTOR	1441	1490	1538	1582	1635	1680	1766
ARSON INVESTIGATOR I	2330	2438	2549	2655	2766	2877	3047
ARSON INVESTIGATOR II	2576	2702	2827	2955	3077	3199	3389
BREATH ALCOHOL ANALYSIS TECHNICIAN	2218	2321	2422	2521	2624	2722	2884
COMMERCE COMMISSION POLICE OFR I	2330	2438	2549	2655	2766	2877	3047
COMMERCE COMMISSION POLICE OFR II	2576	2702	2827	2955	3077	3199	3389
COMMODITIES INSPECTOR	1776	1853	1920	1993	2063	2138	2256
DANGEROUS DRUGS COMPLIANCE OFFICER I	2026	2112	2202	2291	2378	2469	2609
DANGEROUS DRUGS COMPLIANCE OFFICER II	2218	2321	2422	2521	2624	2722	2884
DANGEROUS DRUGS COMPLIANCE OFFICER III	2330	2438	2549	2655	2766	2877	3047
DRUG COMPLIANCE INVESTIGATOR	3203	3370	3535	3701	3872	4035	4285
ENVIRONMENTAL PROTECTION LEGAL INVESTIGATOR I	1776	1853	1920	1993	2063	2138	2256
ENVIRONMENTAL PROTECTION LEGAL INVESTIGATOR II	1942	2024	2100	2187	2267	2353	2484
EXPLOSIVES INSPECTOR I	2124	2216	2309	2412	2504	2601	2751
EXPLOSIVES INSPECTOR II	2444	2561	2680	2792	2906	3024	3204
FINGERPRINT TECHNICIAN I	1647	1710	1771	1838	1897	1962	2066
FINGERPRINT TECHNICIAN II	1776	1853	1920	1993	2063	2138	2256
FINGERPRINT TECHNICIAN III	1942	2024	2100	2187	2267	2353	2484
FIRE PREVENTION INSPECTOR I	2218	2321	2422	2521	2624	2722	2884
FIRE PREVENTION INSPECTOR II	2576	2702	2827	2955	3077	3199	3389
GUARD I	1490	1540	1591	1642	1690	1740	1826
GUARD II	1647	1710	1771	1838	1897	1962	2066
GUARD III	1854	1931	2002	2084	2161	2235	2360
LICENSING ASSISTANT	1592	1647	1705	1763	1820	1881	1982
LICENSING INVESTIGATOR I	1854	1931	2002	2084	2161	2235	2360
LICENSING INVESTIGATOR II	2124	2216	2309	2412	2504	2601	2751
LICENSING INVESTIGATOR III	2218	2321	2422	2521	2624	2722	2884
LICENSING INVESTIGATOR IV	2444	2561	2680	2792	2906	3024	3204
LIQUOR CONTROL SPECIAL AGENT I	2026	2112	2202	2291	2378	2469	2609
MOTORIST ASSISTANCE SPECIALIST	1592	1647	1705	1763	1820	1881	1982
PLANT & PESTICIDE SPECIALIST I	2218	2321	2422	2521	2624	2722	2884
PLANT & PESTICIDE SPECIALIST II	2444	2561	2680	2792	2906	3024	3204
PLUMBING INSPECTOR	2576	2702	2827	2955	3077	3199	3389
POLICE OFFICER I	2330	2438	2549	2655	2766	2877	3047
POLICE OFFICER II	2576	2702	2827	2955	3077	3199	3389

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

	~~To-be-determined~~						
POLICE OFFICER III	2870	3014	3155	3305	3447	3589	3809
POLYGRAPH EXAMINER I	2576	2702	2827	2955	3077	3199	3389
POLYGRAPH EXAMINER II	2870	3014	3155	3305	3447	3589	3809
POLYGRAPH EXAMINER III	3203	3370	3535	3701	3872	4035	4285
PRODUCTS & STANDARDS INSPECTOR	1942	2024	2100	2187	2267	2353	2484
SECURITY OFFICER	1942	2024	2100	2187	2267	2353	2484
SECURITY OFFICER SERGEANT	2026	2112	2202	2291	2378	2469	2609
SEED ANALYST I	1854	1931	2002	2084	2161	2235	2360
SEED ANALYST II	1942	2024	2100	2187	2267	2353	2484
SITE SECURITY OFFICER	1647	1710	1771	1838	1897	1962	2066
TRUCK WEIGHING INSPECTOR	1710	1774	1843	1909	1981	2049	2155
VEHICLE EMISSIONS COMPLIANCE INSPECTOR	1942	2024	2100	2187	2267	2353	2484
VEHICLE TESTING COMPLIANCE OFFICER	2218	2321	2422	2521	2624	2722	2884
VITAL RECORDS QUALITY CONTROL INSPECTOR	1942	2024	2100	2187	2267	2353	2484
WAREHOUSE CLAIMS SPECIALIST	2716	2854	2988	3126	3258	3395	3600
WAREHOUSE EXAMINER I	1942	2024	2100	2187	2267	2353	2484
WAREHOUSE EXAMINER II	2218	2321	2422	2521	2624	2722	2884
WAREHOUSE EXAMINER III	2444	2561	2680	2792	2906	3024	3204
WELL INSPECTOR I	2124	2216	2309	2412	2504	2601	2751
WELL INSPECTOR II	2444	2561	2680	2792	2906	3024	3204

NOTE: Effective July 1, 1994, employees who have 15 years of service and have 3 or more years of creditable service on Step 7 in the same pay grade shall receive an additional $25.00 monthly.

Effective: January 1, 1995

	STEPS						
	1	2	3	4	5	6	7
FINGERPRINT TECHNICIAN	1942	2024	2100	2187	2267	2353	2484
TRUCK WEIGHING INSPECTOR	1776	1853	1920	1993	2063	2138	2256

Effective: July 1, 1995

	STEPS						
	1	2	3	4	5	6	7
AGRICULTURAL PRODUCTS PROMOTER	2175	2268	2360	2449	2543	2687	2741
ANIMAL & ANIMAL PRODUCTS INVESTIGATOR	2282	2378	2484	2579	2679	2834	2891
APIARY INSPECTOR	1535	1584	1629	1684	1730	1819	1855
ARSON INVESTIGATOR I	2511	2625	2735	2849	2963	3138	3201
ARSON INVESTIGATOR II	2783	2912	3044	3169	3295	3491	3561
BREATH ALCOHOL ANALYSIS TECHNICIAN	2391	2495	2597	2703	2804	2971	3030
COMMERCE COMMISSION POLICE OFR I	2511	2625	2735	2849	2963	3138	3201
COMMERCE COMMISSION POLICE OFR II	2783	2912	3044	3169	3295	3491	3561

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

COMMODITIES INSPECTOR	1909	1978	2053	2125	2202	2324	2370
DANGEROUS DRUGS COMPLIANCE OFFICER I	2175	2268	2360	2449	2543	2687	2741
DANGEROUS DRUGS COMPLIANCE OFFICER II	2391	2495	2597	2703	2804	2971	3030
DANGEROUS DRUGS COMPLIANCE OFFICER III	2511	2625	2735	2849	2963	3138	3201
DRUG COMPLIANCE INVESTIGATOR	3471	3641	3812	3988	4156	4414	4502
ENVIRONMENTAL PROTECTION LEGAL INVESTIGATOR I	1909	1978	2053	2125	2202	2324	2370
ENVIRONMENTAL PROTECTION LEGAL INVESTIGATOR II	2085	2163	2253	2335	2424	2559	2610
EXPLOSIVES INSPECTOR I	2282	2378	2484	2579	2679	2834	2891
EXPLOSIVES INSPECTOR II	2638	2760	2876	2993	3115	3300	3366
FINGERPRINT TECHNICIAN	2085	2163	2253	2335	2424	2559	2610
FIRE PREVENTION INSPECTOR I	2391	2495	2597	2703	2804	2971	3030
FIRE PREVENTION INSPECTOR II	2783	2912	3044	3169	3295	3491	3561
GUARD I	1586	1639	1691	1741	1792	1881	1919
GUARD II	1761	1824	1893	1954	2021	2128	2171
GUARD III	1989	2062	2147	2226	2302	2431	2480
LICENSING ASSISTANT	1696	1756	1816	1875	1937	2041	2082
LICENSING INVESTIGATOR I	1989	2062	2147	2226	2302	2431	2480
LICENSING INVESTIGATOR II	2282	2378	2484	2579	2679	2834	2891
LICENSING INVESTIGATOR III	2391	2495	2597	2703	2804	2971	3030
LICENSING INVESTIGATOR IV	2638	2760	2876	2993	3115	3300	3366
LIQUOR CONTROL SPECIAL AGENT I	2175	2268	2360	2449	2543	2687	2741
MOTORIST ASSISTANCE SPECIALIST	1696	1756	1816	1875	1937	2041	2082
PLANT & PESTICIDE SPECIALIST I	2391	2495	2597	2703	2804	2971	3030
PLANT & PESTICIDE SPECIALIST II	2638	2760	2876	2993	3115	3300	3366
PLUMBING INSPECTOR	2940	3078	3220	3356	3497	3708	3782
POLICE OFFICER I	2511	2625	2735	2849	2963	3138	3201
POLICE OFFICER II	2783	2912	3044	3169	3295	3491	3561
POLICE OFFICER III	~~To-be-determined~~						
	3104	3250	3404	3550	3697	3923	4001
POLYGRAPH EXAMINER I	2783	2912	3044	3169	3295	3491	3561
POLYGRAPH EXAMINER II	3104	3250	3404	3550	3697	3923	4001
POLYGRAPH EXAMINER III	3471	3641	3812	3988	4156	4414	4502
PRODUCTS & STANDARDS INSPECTOR	2085	2163	2253	2335	2424	2559	2610
SECURITY OFFICER	2085	2163	2253	2335	2424	2559	2610
SECURITY OFFICER SERGEANT	2175	2268	2360	2449	2543	2687	2741
SEED ANALYST I	1989	2062	2147	2226	2302	2431	2480
SEED ANALYST II	2085	2163	2253	2335	2424	2559	2610
SITE SECURITY OFFICER	1761	1824	1893	1954	2021	2128	2171
TRUCK WEIGHING INSPECTOR	1909	1978	2053	2125	2202	2324	2370
VEHICLE EMISSIONS COMPLIANCE INSPECTOR	2085	2163	2253	2335	2424	2559	2610
VEHICLE TESTING COMPLIANCE OFFICER	2391	2495	2597	2703	2804	2971	3030
VITAL RECORDS QUALITY CONTROL	2085	2163	2253	2335	2424	2559	2610

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

INSPECTOR							
WAREHOUSE CLAIMS SPECIALIST	2940	3078	3220	3356	3497	3708	3782
WAREHOUSE EXAMINER I	2085	2163	2253	2335	2424	2559	2610
WAREHOUSE EXAMINER II	2391	2495	2597	2703	2804	2971	3030
WAREHOUSE EXAMINER III	2638	2760	2876	2993	3115	3300	3366
WELL INSPECTOR I	2282	2378	2484	2579	2679	2834	2891
WELL INSPECTOR II	2638	2760	2876	2993	3115	3300	3366

NOTE: Effective July 1, 1995, the Step 7 Longevity clause is terminated for duration of the contract.

Effective: July 1, 1996

	STEPS						
	1	2	3	4	5	6	7
AGRICULTURAL PRODUCTS PROMOTER	2240	2336	2431	2522	2619	2768	2823
ANIMAL & ANIMAL PRODUCTS INVESTIGATOR	2350	2449	2559	2656	2759	2919	2978
APIARY INSPECTOR	1581	1632	1678	1735	1782	1874	1911
ARSON INVESTIGATOR I	2586	2704	2817	2934	3052	3232	3297
ARSON INVESTIGATOR II	2866	2999	3135	3264	3394	3596	3668
BREATH ALCOHOL ANALYSIS TECHNICIAN	2463	2570	2675	2784	2888	3060	3121
COMMERCE COMMISSION POLICE OFR. I	2704	2817	2934	3052	3232	3297	3363
COMMERCE COMMISSION POLICE OFR II	2999	3135	3264	3394	3596	3668	3741
COMMODITIES INSPECTOR	1966	2037	2115	2189	2268	2394	2441
DANGEROUS DRUGS COMPLIANCE OFFICER I	2240	2336	2431	2522	2619	2768	2823
DANGEROUS DRUGS COMPLIANCE OFFICER II	2463	2570	2675	2784	2888	3060	3121
DANGEROUS DRUGS COMPLIANCE OFFICER III	2586	2704	2817	2934	3052	3232	3297
DRUG COMPLIANCE INVESTIGATOR	3575	3750	3926	4108	4281	4546	4637
ENVIRONMENTAL PROTECTION LEGAL INVESTIGATOR I	1966	2037	2115	2189	2268	2394	2441
ENVIRONMENTAL PROTECTION LEGAL INVESTIGATOR II	2148	2228	2321	2405	2497	2636	2688
EXPLOSIVES INSPECTOR I	2350	2449	2559	2656	2759	2919	2978
EXPLOSIVES INSPECTOR II	2717	2843	2962	3083	3208	3399	3467
FINGERPRINT TECHNICIAN	2148	2228	2321	2405	2497	2636	2688
FIRE PREVENTION INSPECTOR I	2463	2570	2675	2784	2888	3060	3121
FIRE PREVENTION INSPECTOR II	2866	2999	3135	3264	3394	3596	3668
GUARD I	1634	1688	1742	1793	1846	1937	1977
GUARD II	1814	1879	1950	2013	2082	2192	2236
GUARD III	2049	2124	2211	2293	2371	2504	2554
LICENSING ASSISTANT	1747	1809	1870	1931	1995	2102	2144
LICENSING INVESTIGATOR I	2049	2124	2211	2293	2371	2504	2554
LICENSING INVESTIGATOR II	2350	2449	2559	2656	2759	2919	2978
LICENSING INVESTIGATOR III	2463	2570	2675	2784	2888	3060	3121

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

LICENSING INVESTIGATOR IV	2717	2843	2962	3083	3208	3399	3467
LIQUOR CONTROL SPECIAL AGENT I	2240	2336	2431	2522	2619	2768	2823
MOTORIST ASSISTANCE SPECIALIST	1747	1809	1870	1931	1995	2102	2144
PLANT & PESTICIDE SPECIALIST I	2463	2570	2675	2784	2888	3060	3121
PLANT & PESTICIDE SPECIALIST II	2717	2843	2962	3083	3208	3399	3467
PLUMBING INSPECTOR	3028	3170	3317	3457	3602	3819	3895
POLICE OFFICER I	2704	2817	2934	3052	3232	3297	3363
POLICE OFFICER II	2999	3135	3264	3394	3596	3668	3741
POLICE OFFICER III	~~To-be-determined~~						
	3197	3348	3506	3657	3808	4041	4121
POLYGRAPH EXAMINER I	2866	2999	3135	3264	3394	3596	3668
POLYGRAPH EXAMINER II	3197	3348	3506	3657	3808	4041	4121
POLYGRAPH EXAMINER III	3575	3750	3926	4108	4281	4546	4637
PRODUCTS & STANDARDS INSPECTOR	2148	2228	2321	2405	2497	2636	2688
SECURITY OFFICER	2148	2228	2321	2405	2497	2636	2688
SECURITY OFFICER SERGEANT	2240	2336	2431	2522	2619	2768	2823
SEED ANALYST I	2049	2124	2211	2293	2371	2504	2554
SEED ANALYST II	2148	2228	2321	2405	2497	2636	2688
SITE SECURITY OFFICER	1814	1879	1950	2013	2082	2192	2236
TRUCK WEIGHING INSPECTOR	1966	2037	2115	2189	2268	2394	2441
VEHICLE EMISSIONS COMPLIANCE INSPECTOR	2148	2228	2321	2405	2497	2636	2688
VEHICLE TESTING COMPLIANCE OFFICER	2463	2570	2675	2784	2888	3060	3121
VITAL RECORDS QUALITY CONTROL INSPECTOR	2148	2228	2321	2405	2497	2636	2688
WAREHOUSE CLAIMS SPECIALIST	3028	3170	3317	3457	3602	3819	3895
WAREHOUSE EXAMINER I	2148	2228	2321	2405	2497	2636	2688
WAREHOUSE EXAMINER II	2463	2570	2675	2784	2888	3060	3121
WAREHOUSE EXAMINER III	2717	2843	2962	3083	3208	3399	3467
WELL INSPECTOR I	2350	2449	2559	2656	2759	2919	2978
WELL INSPECTOR II	2717	2843	2962	3083	3208	3399	3467

(Source: Amended at 20 Ill. Reg. 328, effective DEC 22 1995)

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT(S)

1) Heading of the Part: Determination Of Unemployment Contributions

2) Code Citation: 56 Ill. Adm. Code 2770

3)

Section Number:	Adopted Action:
2770.100	Amended Section
2770.110	Amended Section

4) Statutory Authority: 820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701.

5) Effective Date of the Amendment: January 1, 1996.

6) Does this rulemaking contain an automatic repeal date? No

7) Does this Rule contain an incorporation by reference? Yes

8) Date filed in Agency's Principal Office: December 19, 1995.

9) Notice of Proposal published in Illinois Register: September 22, 1995 at 19 Ill. Reg. 13168.

10) Has JCAR issued a Statement of Objection to these Rules? No

11) Difference between proposal and final version: No changes were made.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.

13) Will this replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of the rules: This amendment to Part 2770 announces the 1996 contribution rates for newly liable employers by classification within their Standard Industrial Code. In keeping with our commitment to the Joint Committee on Administrative Rules, we are also repealing the rates for 1990 as they are no longer needed. We are also updating a reference to a manual incorporated in the rulemaking.

16) Information and Questions regarding these Adopted Amendments may be addressed to:

Gregory J. Ramel, Deputy Legal Counsel
Illinois Department of Employment Security
401 South State Street - 2 South
Chicago, Illinois 60605
312/793-4240

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT(S)

The full Text of the Adopted Amendment(s) begin on the next page:

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERS

PART 2770
DETERMINATION OF UNEMPLOYMENT CONTRIBUTIONS

SUBPART B: STANDARD INDUSTRIAL CLASSIFICATION

Section
2770.100 Industrial Classification
2770.105 Contribution Rate For Non Experience-Rated Employers
2770.110 Average Contribution Rates By Standard Industrial Classification (SIC) Codes

SUBPART C: ALTERNATIVE BENEFIT WAGE RATIO (Repealed)

Section
2770.150 Eligibility To Elect The Alternative Benefit Wage Ratio (Repealed)
2770.155 Approval Of Election Of The Alternative Benefit Wage Ratio (Repealed)
2770.160 Adjustment Of Benefit Wage Charges And The Determination Of The Alternative Benefit Wage Ratio (Repealed)
2770.165 Revocation Of Election Of Alternative Benefit Wage Ratio (Repealed)
2770.170 Appeals (Repealed)

SUBPART E: TRANSFER OF BENEFIT WAGES FROM BASE PERIOD TO SUBSEQUENT EMPLOYER (Repealed)

Section
2770.400 Definitions (Repealed)
2770.405 Application of Base Period Wages (Repealed)
2770.410 Restriction On Benefit Wage Transfers (Repealed)
2770.415 Benefit Wage Transfer Procedural Requirements (Repealed)
2770.420 Petition For Hearing (Repealed)

SUBPART F: BENEFIT WAGE CANCELLATIONS

Section
2770.501 Effective Date Of Benefit Wage Cancellations Pursuant To Section 1508.1 Of The Act

TABLE A General SIC Classifications

AUTHORITY: Implementing and authorized by Sections 1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700, and 1701 of the Unemployment Insurance Act [820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701].

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT(S)

SOURCE: Emergency rules adopted as 56 Ill. Adm. Code 600: Subpart C at 8 Ill. Reg. 550, effective January 1, 1984, for a maximum of 150 days; adopted at 8 Ill. Reg. 8208, effective May 30, 1984; recodified from 56 Ill. Adm. Code 600: Subpart C at 8 Ill. Reg. 15030; emergency amendments at 8 Ill. Reg. 15088, effective August 8, 1984, for a maximum of 150 days; emergency amendments at 8 Ill. Reg. 22139, effective October 26, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 24117, effective November 30, 1984; amended at 9 Ill. Reg. 4507, effective March 25, 1985; amended at 10 Ill. Reg. 6935, effective April 14, 1986; amended at 10 Ill. Reg. 21683, effective December 15, 1986; amended at 11 Ill. Reg. 9878, effective May 11, 1987; emergency amendments at 12 Ill. Reg. 210, effective January 1, 1988, for a maximum of 150 days, expired May 30, 1988; amended at 12 Ill. Reg. 11213, effective June 20, 1988; amended at 12 Ill. Reg. 12473, effective July 15, 1988; amended at 12 Ill. Reg. 18143, effective October 27, 1988; amended at 12 Ill. Reg. 20477, effective November 28, 1988; amended at 13 Ill. Reg. 11507, effective June 29, 1989; amended at 14 Ill. Reg. 2038, effective January 19, 1990; amended at 14 Ill. Reg. 18280, effective October 30, 1990; amended at 15 Ill. Reg. 172, effective December 28, 1990; amended at 15 Ill. Reg. 8553, effective May 24, 1991; amended at 16 Ill. Reg. 118, effective December 20, 1991; amended at 17 Ill. Reg. 295, effective December 28, 1992; amended at 18 Ill. Reg. 250, effective January 1, 1994; amended at 18 Ill. Reg. 17473, effective January 1, 1995; amended at 20 Ill. Reg. 550, effective JAN 0 1 1996.

SUBPART B: STANDARD INDUSTRIAL CLASSIFICATION

Section 2770.100 Industrial Classification

a) Each employer subject to the Act shall be assigned an industrial classification number based on its primary activity.

1) Each employer shall be assigned to a major Economic Division based on the first two digits of the industrial classification number:

Digits	Economic Division
01-09	A. Agriculture, Forestry, Fishing
10-14	B. Mining
15-17	C. Construction
20-39	D. Manufacturing
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services
50-51	F. Wholesale Trade
52-59	G. Retail Trade
60-67	H. Finance, Insurance, Real Estate
70-89	I. Services
91-97	J. Public Administration
99	K. Nonclassifiable Establishments

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT(S)

2) The methodology for the above classifications shall be based upon the Standard Industrial Classification Manual, U.S. Office of Management and Budget (1987) ~~(1972), and supplemented by the U.S. Dept. of Labor, Bureau of Labor Statistics, January 1983~~, which shall be incorporated and adopted by reference.

3) The general classifications to be used shall be those set forth in Table A.

b) Each employer not eligible for an experience rate and in an Economic Division where the mean average contribution rate for experience rated employers is greater than the rates set forth in Section 2770.105(a)(1) or (2) or (3), as applicable, shall be notified in writing of his industrial classification and rate of contribution.

c) An industrial classification which is properly assigned pursuant to subsection (a)(2) at the beginning of each calendar year or the date of liability, whichever is later, shall be final and conclusive for rate determination purposes for that entire calendar year.

(Source: Amended at 20 Ill. Reg. 550, effective JAN 0 1 1996)

Section 2770.110 Average Contribution Rates By Standard Industrial Classification (SIC) Codes

~~a) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1990, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:~~

~~Digits~~	~~Economic Division~~	~~Rate~~
~~01-09~~	~~A. Agriculture, Forestry, Fishing~~	~~3.3%~~
~~10-14~~	~~B. Mining~~	~~4.7%~~
~~15-17~~	~~C. Construction~~	~~4.1%~~
~~20-39~~	~~D. Manufacturing~~	~~2.7%~~
~~40-49~~	~~E. Transportation, Communication, Electric, Gas, Sanitary Services~~	~~2.0%~~
~~50-51~~	~~F. Wholesale Trade~~	~~2.0%~~
~~52-59~~	~~G. Retail Trade~~	~~2.1%~~
~~60-67~~	~~H. Finance, Insurance, Real Estate~~	~~1.4%~~
~~70-89~~	~~I. Services~~	~~1.6%~~
~~91-97~~	~~J. Public Administration~~	~~2.3%~~
~~99~~	~~K. Nonclassifiable Establishments~~	~~2.2%~~

a)~~b)~~ The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1991, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT(S)

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.1%
10-14	B. Mining	4.3%
15-17	C. Construction	3.7%
20-39	D. Manufacturing	2.2%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	2.5%
50-51	F. Wholesale Trade	1.7%
52-59	G. Retail Trade	1.8%
60-67	H. Finance, Insurance, Real Estate	1.3%
70-89	I. Services	1.5%
91-97	J. Public Administration	2.0%
99	K. Nonclassifiable Establishments	2.1%

b)~~c)~~ The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1992, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	2.9%
10-14	B. Mining	3.8%
15-17	C. Construction	3.5%
20-39	D. Manufacturing	2.0%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	2.3%
50-51	F. Wholesale Trade	1.5%
52-59	G. Retail Trade	1.6%
60-67	H. Finance, Insurance, Real Estate	1.2%
70-89	I. Services	1.3%
91-97	J. Public Administration	1.7%
99	K. Nonclassifiable Establishments	2.1%

c)~~d)~~ The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1993, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.0%
10-14	B. Mining	3.6%

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT(S)

15-17	C. Construction	3.7%
20-39	D. Manufacturing	2.2%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	2.2%
50-51	F. Wholesale Trade	1.6%
52-59	G. Retail Trade	1.4%
60-67	H. Finance, Insurance, Real Estate	1.2%
70-89	I. Services	1.3%
91-97	J. Public Administration	1.5%
99	K. Nonclassifiable Establishments	1.8%

d)~~e)~~ The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1994, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.5%
10-14	B. Mining	4.1%
15-17	C. Construction	4.4%
20-39	D. Manufacturing	2.7%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	2.6%
50-51	F. Wholesale Trade	2.0%
52-59	G. Retail Trade	1.6%
60-67	H. Finance, Insurance, Real Estate	1.4%
70-89	I. Services	1.5%
91-97	J. Public Administration	1.6%
99	K. Nonclassifiable Establishments	1.9%

e)~~f)~~ The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1995, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	4.0%
10-14	B. Mining	4.5%
15-17	C. Construction	5.0%

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENT(S)

20-39	D. Manufacturing	3.2%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	3.0%
50-51	F. Wholesale Trade	2.4%
52-59	G. Retail Trade	1.9%
60-67	H. Finance, Insurance, Real Estate	1.7%
70-89	I. Services	1.8%
91-97	J. Public Administration	1.6%
99	K. Nonclassifiable Establishments	2.5%

f) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1996, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.9%
10-14	B. Mining	4.3%
15-17	C. Construction	4.7%
20-39	D. Manufacturing	2.8%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	2.7%
50-51	F. Wholesale Trade	2.2%
52-59	G. Retail Trade	1.7%
60-67	H. Finance, Insurance, Real Estate	1.5%
70-89	I. Services	1.7%
91-97	J. Public Administration	1.6%
99	K. Nonclassifiable Establishments	2.4%

(Source: Amended at 20 Ill. Reg. 350, effective JANUARY 1, 1996)

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF ADOPTED AMENDMENT(S)

1) Heading of the Part: Access to Information

2) Code Citation: 2 Ill. Adm. Code 1901

3) Section Numbers: Adopted Action:

1901.110	Amendment
1901.210	Amendment
1901.410	Amendment
1901.Appendix A	Amendment

4) Statutory Authority: Implementing Section 5.15 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1005-15) [5 ILCS 100/5-15] and authorized by Section 4.01 of the Illinois Health Facilities Authority Act (Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1104.01) [20 ILCS 3705/ 4.01].

5) Effective Date of Amendments: December 26, 1995.

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: November 16, 1995

9) Notice(s) of Proposal Published in Illinois Register: Not applicable

10) Has JCAR issued a Statement of Objections to this (these) Rule(s)? Not applicable

11) Difference(s) between Proposal and final version: Not applicable

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Not applicable

13) Will these amendments replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of these amendments: To reflect the new address of the principal office of the Illinois Health Facility Authority and to update certain statutory references.

16) Information and questions regarding these amendments shall be directed to:

Name: Mary M. McInerney
Executive Director
Address: Illinois Health Facilities Authority

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF ADOPTED AMENDMENT(S)

180 North Stetson Avenue - Suite 1100
Chicago, Illinois 60601
Telephone: 312-861-4445
TDD: 312-861-4456

The full text of the adopted amendments begins on the next page:

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF ADOPTED AMENDMENT(S)

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XVII: ILLINOIS HEALTH FACILITIES AUTHORITY

PART 1901
ACCESS TO INFORMATION

SUBPART A: INTRODUCTION

Section
1901.110 Summary and Purpose
1901.120 Definitions

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

Section
1901.210 Person To Whom Requests Are Submitted
1901.220 Form and Content of Requests

SUBPART C: PROCEDURES FOR AUTHORITY RESPONSE TO REQUESTS FOR PUBLIC RECORDS

Section
1901.310 Timeline for Authority Response
1901.320 Categories of Authority Responses

SUBPART D: AUTHORITY PROCEDURES FOR APPEAL OF A DENIAL

Section
1901.410 Appeal of a Denial
1901.420 Executive Director's Response to Appeal

SUBPART E: PROCEDURES FOR PROVIDING PUBLIC RECORDS TO REQUESTORS

Section
1901.510 Inspection of Records at the Office of the Authority
1901.520 Copies of Public Records
1901.530 General Materials Available from the Freedom of Information Officer

APPENDIX A Request for Public Records

AUTHORITY: Implementing and authorized by the Freedom of Information Act [5 ILCS 140/1 et seq.] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted at 8 Ill. Reg. 17300, effective September 11, 1984; amended at 20 Ill. Reg. 359, effective DEC 2 1995.

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF ADOPTED AMENDMENT(S)

SUBPART A: INTRODUCTION

Section 1901.110 Summary and Purpose

a) These rules are established to implement the provisions of the Freedom of Information Act [5 ILCS 140/1 et seq.] ~~(P.A. 83-1013, effective July 1, 1984, Supp. to Ill. Rev. Stat. 1983, ch. 116, par. 201 et seq.)~~. The purpose of these rules is to support the policy of providing public access to the public records in the possession of the Illinois Health Facilities Authority while, at the same time, protecting legitimate privacy interests and maintaining administrative efficiency.

b) These rules create a procedure by which the public may request and obtain public records from the Illinois Health Facilities Authority. Therefore, they are being filed in accordance with Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] ~~(Ill. Rev. Stat. 1991, ch. 127, par. 1005-15)~~.

(Source: Amended at 20 Ill. Reg. 358, effective DEC 23 1995)

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

Section 1901.210 Person To Whom Requests Are Submitted

Requests for public records shall be submitted to the Authority's Freedom of Information Officer. Requests shall be submitted to the following address:

Freedom of Information Officer
Illinois Health Facilities Authority
180 North Stetson Avenue,
Suite 1100
~~35 E. Wacker Drive, Suite 2100~~
Chicago, Illinois 60601

ATTN: FOIA Request

(Source: Amended at 20 Ill. Reg. 358, effective DEC 26 1995)

SUBPART D: AUTHORITY PROCEDURES FOR APPEAL OF A DENIAL

Section 1901.410 Appeal of a Denial

a) A requestor whose request has been denied by the Freedom of Information Officer may appeal the denial to the Executive Director of the Authority. The notice of appeal shall be made in writing and sent to:

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF ADOPTED AMENDMENT(S)

Executive Director
Illinois Health Facilities Authority
180 North Stetson Avenue,
Suite 1100
~~35 E. Wacker Drive, Suite 2100~~
Chicago, Illinois 60601

ATTN: FOIA Appeal

b) The notice of appeal shall include a copy of the original request, a copy of the denial received by the requestor, and a statement of the reasons why the appeal should be granted.

(Source: Amended at 20 Ill. Reg. 358, effective DEC 26 1995)

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF ADOPTED AMENDMENT(S)

Section 1901.APPENDIX A Request for Public Records

TO:

Freedom of Information Officer
Illinois Health Facilities Authority
180 North Stetson Avenue, Suite 1100
~~35 E. Wacker Drive Suite 2100~~
Chicago, Illinois 60601

FROM:

_____
NAME

_____
ADDRESS

_____Zip_____

(_____)_____
TELEPHONE

DESCRIPTION OF REQUESTED RECORD(S):

Please indicate if you wish to inspect the above-captioned records or wish a copy of them:

____ Inspection ____ Copy ____ Both

FOR OFFICE USE ONLY:

_____ _____
Date Received Date Response Due

(Source: Amended at 20 Ill. Reg. 368, 7 effective December 26, 1995)

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Public Information, Rule Making and Organization

2) Code Citation: 2 Ill. Adm. Code 1900

3) Section Numbers: Adopted Action:

1900.110	Amendment
1900.210	Amendment
1900.250	Amendment
1900.270	Amendment

4) Statutory Authority: Implementing Section 5.15 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1005-15) [5 ILCS 100/5-15] and authorized by Section 4.01 of the Illinois Health Facilities Authority Act (Ill. Rev. Stat. 1991, ch. 111-1/2, par. 1104.01) [20 ILCS 3705/ 4.01].

5) Effective Date of Amendments: December 26, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: November 16, 1995

9) Notice(s) of Proposal Published in Illinois Register: Not applicable.

10) Has JCAR issued a Statement of Objections to this (these) Rule(s)? Not applicable.

11) Difference(s) between Proposal and final version: Not applicable.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Not applicable.

13) Will these amendments replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of these amendments: To reflect the new address of the principal office of the Illinois Health Facility Authority and to update certain statutory references.

16) Information and questions regarding these amendments shall be directed to:

Name: Mary M. McInerney
Executive Director
Address: Illinois Health Facilities Authority
180 North Stetson Avenue - Suite 1100

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF PROPOSED AMENDMENT(S)

Chicago, Illinois 60601
Telephone: 312-861-4445
TDD: 312-861-4456

The full text of the adopted amendments begins on the next page:

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XVII: ILLINOIS HEALTH FACILITIES AUTHORITY

PART 1900
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

SUBPART A: PUBLIC INFORMATION

Section
1900.10 Requests for Information

SUBPART B: RULEMAKING

Section
1900.110 Rule-Making Procedures
1900.120 Public Petitions for Rule-Making

SUBPART C: ORGANIZATION

Section
1900.210 Principal Office
1900.220 Governing Body
1900.230 Officers
1900.240 Administrative Personnel
1900.250 Meetings
1900.260 Fiscal Year
1900.270 Authority Action

AUTHORITY: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 4.01 of the Illinois Health Facilities Authority Act [20 ILCS 3705/4.01].

SOURCE: Adopted at 3 Ill. Reg. 20, p. 55, effective May 17, 1979; codified at 8 Ill. Reg. 18469; amended at 20 Ill. Reg. 1564, effective DEC 26 1995.

SUBPART B: RULEMAKING

Section 1900.110 Rule-Making Procedures

The Authority will initiate rule-making procedures in accordance with the Illinois Administrative Procedure Act on its own initiative as necessary in order to further the purposes of the Authority. In addition, the compilation of rules of the Authority will be supplemented or revised as necessary ~~at least every two years~~.

(Source: Amended at 20 Ill. Reg. 1564, effective

ILLINOIS HEALTH FACILITIES AUTHORITY

NOTICE OF PROPOSED AMENDMENT(S)

DEC 2 0 1995)

SUBPART C: ORGANIZATION

Section 1900.210 Principal Office

The principal office of the Authority is located at 180 North Stetson Avenue ~~35 East Wacker Drive~~, Suite 1100 ~~2100~~, Chicago, Illinois 60601. The telephone number of the Authority is (312) 861-4445 (TDD (312) 861-4456) ~~782-9447~~.

(Source: Amended at 20 Ill. Reg. 301, effective DEC 2 6 1995)

Section 1900.250 Meetings

The annual meeting of the Authority is held in October of each year at a time and place established by the Chairman upon at least ten days notice to each Member. Special meetings may be held at the call of the Chairman or any three Members of the Authority upon at least ten days notice to each Member. A quorum consists of four Members of the Authority. Meetings of the Members of the Authority are open to the public in accordance with the Open Meetings Act [5 ILCS 120/1 et seq.] ~~{Ill. Rev. Stat. 1991, ch. 102, para. 41 et seq.}~~, as amended from time to time.

(Source: Amended at 20 Ill. Reg. 384, effective DEC 2 6 1995)

Section 1900.270 Authority Action

Any action taken by the Authority under the Illinois Health Facilities Authority Act, as amended, [20 ILCS 3705/1 et seq.] ~~{Ill. Rev. Stat. ch. 111 1/2, para. 1101 et seq.}~~, may be authorized by resolution at any annual or special meeting. The affirmative vote of at least four of the Members is necessary for any action taken by the Authority. Unless otherwise provided therein, such resolution shall take effect immediately.

(Source: Amended at 20 Ill. Reg. 384, effective DEC 2 6 1995)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULE

1) Heading of the Part: Credit for Reinsurance Ceded

2) Code Citation: 50 Ill. Adm. Code 1104

3)

Section Number:	Adopted Action:
1104.10	Adopted
1104.20	Adopted
1104.30	Adopted
1104.40	Adopted
1104.50	Adopted
1104.60	Adopted
1104.70	Adopted
1104.80	Adopted
1104.90	Adopted
1104.100	Adopted
1104.110	Adopted
1104.120	Adopted
APPENDIX A	Adopted

4) Statutory Authority: Implementing Sections 173 and 173.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/173, 173.1 and 401].

5) Effective Date of Rule: January 1, 1996

6) Does this Rule contain an automatic repeal date? No.

7) Does this Rule contain incorporations by reference? Yes

8) Date filed in Agency's Principal Office: December 19, 1995

9) Notice of Proposal Published in Illinois Register:

September 15, 1995, 19 Ill. Reg. 12903

10) Has JCAR issued a Statement of Objections to this Rule? No

11) Difference(s) between proposal and final version:
a) Section 1104.10, on the third line delete "the".
b) Section 1104.40(a), on the sixth line add "," after "statement."
c) Section 1104.50, on the fourth line change "Sections" to "Section."
d) Section 1104.40(b)(2), on the fourth line, add "gross" after "aggregate".
e) Section 1104.60(b), on the third line, change "subsection" to "subsections" and add a space after "subsections". Also on the fourth line change "Sections" to "Section."
f) Section 1104.70, in heading change "under" to "Under".

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULE

g) Section 1104.70(c)(1); on the fifth line, add "," after "notice".
h) Section 1104.70(d)(2)(A)(i), on the last full line change "," to ";" after "amount".
i) Section 1104.70(d)(2)(C)(i), on the third line, change "subparagraph" to "subsection".
j) Section 1104.80(e), on the fourth line, change "N°" to "No.".
k) Section 1104.80(f), on the third line, change "N°" to "No.".
l) Section 1104.80(i)(1)(B), on the sixth line, delete "shall".
m) Section 1104.80(i)(1)(B)(iii), on the fifth line delete "(such" and add ".The".
n) Section 1104.80(i)(1)(B)(iii), on the eighth line, add "(including losses incurred but not reported)" after "incurred".
o) Section 1104.80(i)(1)(B)(iii), on the last line delete") and" following "reserves".
p) Section 1104.80(i)(8)(B)(iv) delete the period and add "; and".
q) Section 1104.80(i)(1)(B), add "v) To pay existing liabilities between the insurer and the reinsurer upon commutation of one or more reinsurance contracts".
r) Section 1104.Appendix A, in heading delete "-" after "1".

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes, all changes agreed upon by the Department have been made.

13) Will this Rule replace an emergency Rule currently in effect? No.

14) Are there any amendments pending on this Part? No.

15) Summary and Purpose of rulemaking: Part 1104 authorizes domestic insurance companies to receive credit for reserves on ceded risks pursuant to Sections 173 and 173.1 of the Illinois Insurance Code [215 ILCS 5/173 and 173.1].

16) Information and questions regarding this Adopted Rule shall be directed to:

Cindy Stephenson
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 782-1785

The full text of the Adopted Rule begins on the next page.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULE

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER o: REINSURANCE

PART 1104
CREDIT FOR REINSURANCE CEDED

Section
1104.10 Purpose
1104.20 Credit for Reinsurance - Reinsurer Licensed in this State
1104.30 Credit for Reinsurance - Accredited Reinsurers
1104.40 Credit for Reinsurance - Reinsurers Maintaining Trust Funds
1104.50 Credit for Reinsurance Required by Law
1104.60 Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer
1104.70 Trust Agreements Qualified Under Section 1104.60 of this Part
1104.80 Letters of Credit Qualified Under Section 1104.60 of this Part
1104.90 Other Security
1104.100 Reinsurance Contract
1104.110 Contracts Affected
1104.120 Severability
1104.APPENDIX A Form AR-1 Certificate of Assuming Insurer

AUTHORITY: Implementing Sections 173 and 173.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/173, 173.1 and 401].

SOURCE: Adopted at JAN 0 1 1996 20 Ill. Reg. 366, effective

Section 1104.10 Purpose

The purpose of this Part is to set forth procedural requirements which the Director deems necessary to carry out the provisions of Article XI of the Illinois Insurance Code [215 ILCS 5/Art. XI).

Section 1104.20 Credit for Reinsurance - Reinsurer Licensed in this State

Pursuant to Section 173.1(1)(A) of the Illinois Insurance Code [215 ILCS 5/173.1(1)(A)], the Director shall allow credit for reinsurance ceded by a domestic insurer to assuming insurers which were licensed in this State as of the date of the ceding insurer's most recent statutory financial statement.

Section 1104.30 Credit for Reinsurance - Accredited Reinsurers

a) Pursuant to Section 173.1(1)(B) of the Illinois Insurance Code [215 ILCS 5/173.1(1)(B)], the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which is accredited as a reinsurer in this State as of the date of the ceding insurer's

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULE

most recent statutory financial statement. An accredited reinsurer is one which:

1) Files a properly executed Form AR-1 Certificate of Assuming Insurer found in Appendix A of this Part as evidence of its submission to this State's jurisdiction and to this State's authority to examine its books and records; and
2) Files with the Director a certified copy of a letter or a certificate of authority or of compliance as evidence that it is licensed to transact insurance or reinsurance in at least one state, or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state; and
3) Files annually with the Director a copy of its annual financial statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and
4) Maintains a surplus as regards policyholders in an amount not less than $20,000,000 and whose accreditation has been approved by the Director.

b) If the Director determines that the assuming insurer has failed to meet or maintain any of these qualifications, the Director may upon written notice and hearing revoke the accreditation.

Section 1104.40 Credit for Reinsurance - Reinsurers Maintaining Trust Funds

a) Pursuant to Section 173.1(1)(C) of the Illinois Insurance Code [215 ILCS 5/173.1(1)(C)], the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of the date of the ceding insurer's most recent statutory financial statement, maintains a trust fund in an amount prescribed in subsection (b) below in a qualified United States financial institution as defined in Section 173.1(3)(B) of the Illinois Insurance Code [215 ILCS 5/173.1(3)(B)], for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the Director substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the Director to determine the sufficiency of the trust fund.
b) The following requirements apply to the following categories of assuming insurer:
   1) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's gross liabilities attributable to business written in the United States, and in addition, a trusteed surplus of not less than $20,000,000. The assuming insurer shall file a properly executed

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULE

Form AR-1 Certificate of Assuming Insurer found in Appendix A of this Part as evidence of the submission to this State's authority to examine its books and records and shall certify that it will bear the expense of any such examination.
   2) The trust fund for a group including incorporated and unincorporated individual underwriters shall consist of funds in trust in an amount not less than the group's aggregate gross liabilities attributable to business written in the United States and, in addition, the group shall maintain a trusteed surplus of which $100,000,000 shall be held jointly for the benefit of the United States ceding insurers of any member of the group. The group shall file a properly executed Form AR-1 Certificate of Assuming Insurer found in Appendix A of this Part as evidence of the submission to this State's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination. The group shall make available to the Director annual certifications by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter member of the group.
   3) The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of $10,000,000,000 (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the National Association of Insurance Commissioners) and which has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation, shall consist of funds in trust in an amount not less than the assuming insurers' gross liabilities attributable to business ceded by United States ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group and, in addition, the group shall maintain a joint trusteed surplus of which $100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall file a properly executed Form AR-1 Certificate of Assuming Insurer found in Appendix A of this Part as evidence of the submission to this State's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination. The group shall make available to the Director annual certifications by the members' domiciliary regulators and their independent public accountants of the solvency of each member of the group.
c) The trust shall be established in a form approved by the Director and complying with Section 173.1(1) of the Illinois Insurance Code [215 ILCS 5/173.1(1)] and this Part. The trust instrument shall provide

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULE

that:

1) Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States.
2) Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest.
3) The trust shall be subject to examination as determined by the Director.
4) The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust.
5) No later than February 28 of each year the trustees of the trust shall report to the Director in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.
6) No amendment to the trust shall be effective unless reviewed and approved in advance by the Director.

Section 1104.50 Credit for Reinsurance Required by Law

Pursuant to Section 173.1(1)(D) of the Illinois Insurance Code [215 ILCS 5/173.1(1)(D)], the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 173.1(1)(A), (B) or (C) of the Illinois Insurance Code [215 ILCS 5/173.1(1)(A), (B) or (C)] but only with respect to the insurance of risks located in jurisdictions where that reinsurance is required by applicable law or regulation of that jurisdiction. As used in this Section, "jurisdiction" means any state, district or territory of the United States and any lawful national government.

Section 1104.60 Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer

Pursuant to Section 173.1(2) of the Illinois Insurance Code [215 ILCS 5/173.1(2)], the Director shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 173.1(1) of the Illinois Insurance Code [215 ILCS 5/173.1(1)] in an amount not exceeding the liabilities carried by the ceding insurer. Such reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder. Such security must be

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULE

held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in Section 173.1(3)(B) of the Illinois Insurance Code [215 ILCS 5/173.1(3)(B)].

a) This security may be in the form of any of the following:
   1) Cash.
   2) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets under Article VIII of the Illinois Insurance Code.
   3) Clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as defined in Section 173.1(3)(A) of the Illinois Insurance Code [215 ILCS 5/173.1(3)(A)], effective no later than December 31 of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual financial statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs.
   4) Any other form of security acceptable to the Director.

b) An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to subsections (a)(1),(2) and (3) above shall be allowed only when the requirements of Section 1104.70, 1104.80 or 1104.90 of this Part are met.

Section 1104.70 Trust Agreements Qualified Under Section 1104.60 of this Part

a) As used in this Section:
   1) Beneficiary means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).
   2) Grantor means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.
   3) Obligations, as used in subsection (b)(11) below, means:
      A) Reinsured losses and allocated loss adjustment expenses paid by the ceding company, but not recovered from the assuming insurer;
      B) Reserves for reinsured losses reported and outstanding;
      C) Reserves for reinsured losses incurred but not reported; and

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULE

D) Reserves for allocated reinsured loss adjustment expenses and unearned premiums.

b) Required Conditions.

1) The trust agreement shall be entered into between the beneficiary, the grantor and a trustee which shall be a qualified United States financial institution as defined in Section 173.1(3)(B) of the Illinois Insurance Code [215 ILCS 5/173.1(3)(B)].

2) The trust agreement shall create a trust account into which assets shall be deposited.

3) All assets in the trust account shall be held by the trustee at the trustee's office in the United States, except that a bank may apply for the Director's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this Section. If the Director approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in subsection (b)(4)(A) below must also be presentable, as a matter of legal right, at the trustee's principal office in the United States.

4) The trust agreement shall provide that:

A) The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;

B) No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;

C) It is not subject to any conditions or qualifications outside of the trust agreement; and

D) It shall not contain references to any other agreements or documents except as provided for under subsection (b)(11) below.

5) The trust agreement shall be established for the sole benefit of the beneficiary.

6) The trust agreement shall require the trustee to:

A) Receive assets and hold all assets in a safe place;

B) Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;

C) Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;

D) Notify the grantor and the beneficiary, within ten (10) days, of any deposits to or withdrawals from the trust

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULE

account;

E) Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and

F) Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

7) The trust agreement shall provide that at least thirty (30) days, but not more than forty-five (45) days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

8) The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established.

9) The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee.

10) The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith.

11) Notwithstanding other provisions of this Part, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may, notwithstanding any other conditions in this Part, provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes:

A) To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

B) To make payment to the assuming insurer of any amounts held in the trust account that exceed one hundred and two percent (102%) of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

C) Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULE

agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in Section 173.1(3)(B) of the Illinois Insurance Code [215 ILCS 5/173.1(3)(B)] apart from its general assets, in trust for such uses and purposes specified in subsections (b)(11)(A) and (B) above as may remain executory after such withdrawal and for any period after the termination date.

12) The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by subsection (d)(1)(B) below, so long as these required conditions are included in the trust agreement.

c) Permitted Conditions.

1) The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety (90) days after receipt by the beneficiary and grantor of the notice, and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ninety (90) days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

2) The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

3) The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in subsection (d)(1)(B) below.

4) The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

5) The trust agreement may provide that, upon termination of the

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULE

trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

d) Additional Conditions Applicable to Reinsurance Agreements.

1) A reinsurance agreement, which is entered into in conjunction with a trust agreement and the establishment of a trust account, must contain provisions that:

A) Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;

B) Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types permitted by the Illinois Insurance Code or any combination of the above, provided that such investments are issued by an institution that is not the parent, subsidiary or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, then the trust agreement may contain the provisions required by this subparagraph in lieu of including such provisions in the reinsurance agreement;

C) Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;

D) Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and

E) Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the

assuming insurer, only for the following purposes:

i) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

ii) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;

iii) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement. The account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses and unearned premium reserves; and

iv) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

2) The reinsurance agreement may also contain provisions that:

A) Give the assuming insurer the right to seek approval from the ceding insurer (the ceding insurer shall not unreasonably or arbitrarily withhold its approval) to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:

i) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount; or

ii) After withdrawal and transfer, the market value of the trust account is no less than one hundred and two percent (102%) of the required amount.

B) Provide for:

i) The return of any amount withdrawn in excess of the actual amounts required for subsections (d)(1)(E)(i), (ii) and (iii) of this Section, or in the case of subsection (d)(1)(E)(iv), any amounts that are subsequently determined not to be due; and

ii) Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to subsection (d)(1)(E)(iii).

C) Permit the award by any arbitration panel or court of competent jurisdiction of:

i) Interest at a rate different from that provided in subsection (d)(2)(B)(ii) of this Section;

ii) Court of arbitration costs;

iii) Attorney's fees; and

iv) Any other reasonable expenses.

3) Financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this Department in compliance with the provisions of this Part when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

4) Existing agreements. Notwithstanding the effective date of this Part, any trust agreement or underlying reinsurance agreement in existence prior to January 1, 1996 which complies with Section 173.1 of the Insurance Code [215 ILCS 5/173.1] will continue to be acceptable until January 1, 1997 at which time the agreements will have to be in full compliance with this Part for the trust agreement to be acceptable.

5) The failure of any trust agreement to specifically identify the beneficiary as defined in subsection (a) above shall not be construed to affect any actions or rights which the Director may take or possess pursuant to the provisions of the laws of this State.

Section 1104.80 Letters of Credit Qualified Under Section 1104.60 of this Part

a) The letter of credit must be clean, irrevocable and unconditional and issued or confirmed by a qualified United States financial institution as defined in Section 173.1(3)(A) of the Illinois Insurance Code [215 ILCS 5/173.1(3)(A)]. The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in subsection (i)(1) below. As used in this Section, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

b) The heading of the letter of credit may include a boxed section which contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

c) The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

d) The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" which prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than thirty (30) days notice prior to the expiration date or nonrenewal.

e) The letter of credit shall state whether it is subject to and governed by the laws of this State or the ICC Uniform Customs and Practice for Documentary Credits (ICC Publication No. 500, May 1993), and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

f) If the letter of credit is made subject to the ICC Uniform Customs and Practice for Documentary Credits (ICC Publication No. 500, May 1993), then the letter of credit shall specifically address and make provision for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 17 of Publication 500 occur.

g) The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, pursuant to Section 173.1(3)(A) of the Illinois Insurance Code [215 ILCS 5/173.1(3)(A)].

h) If the letter of credit is issued by a nonqualified financial institution and is confirmed by a qualified United States financial institution as described in subsection (g) above, then the following additional requirements shall be met:

1) The issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and

2) The "evergreen clause" shall provide for not less than 60 days notice of nonrenewal prior to the expiration date.

i) Reinsurance Agreement Provisions.

1) The reinsurance agreement in conjunction with which the letter of credit is obtained must contain provisions which:

A) Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover.

B) Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other

provisions in the agreement, and be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

i) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

ii) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement;

iii) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement. (The amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported) and unearned premium reserves;

iv) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement; and

v) To pay existing liabilities between the insurer and the reinsurer upon commutation of one or more reinsurance contracts.

C) All of the foregoing provisions of subsection (i)(1) above should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

2) Nothing contained in subsection (i)(1) above shall preclude the ceding insurer and assuming insurer from providing for:

A) An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to subsection (i)(1)(B)(iii) above; and/or

B) The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, in the case of subsection (i)(1)(B)(iv) above, any amounts that are subsequently determined not to be due.

3) When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of subsection (i)(1)(B) above, require that the parties enter into a "Trust Agreement" which may be incorporated into the reinsurance agreement or be a separate document.

j) A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this Department unless an

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULE

acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement. Further, the reduction for the letter of credit may be up to the amount available under the letter of credit but no greater than the specific obligation under the reinsurance agreement which the letter of credit was intended to secure.

Section 1104.90 Other Security

A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

Section 1104.100 Reinsurance Contract

Credit will not be granted to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of Sections 1104.20, 1104.30, 1104.40 or 1104.60 of this Part or otherwise in compliance with Section 173.1(1) of the Illinois Insurance Code [215 ILCS 5/173.1(1)] after January 1, 1996 unless the reinsurance agreement:

a) Includes a proper insolvency clause pursuant to Section 173.2 of the Illinois Insurance Code [215 ILCS 5/173.2]; and

b) Includes a provision pursuant to Section 173.1(1)(E) of the Illinois Insurance Code [215 ILCS 5/173.1(1)(E)] whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of such court or panel.

Section 1104.110 Contracts Affected

All new and renewal reinsurance transactions entered into after January 1, 1996 shall conform to the requirements of this Part if credit is to be given to the ceding insurer for such reinsurance.

Section 1104.120 Severability

If any provisions of this Part, or their application to any person or circumstance is held invalid, such determination shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or application, and to that end the provisions of this Part are separable.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULE

Section 1104.APPENDIX A Form AR-1 Certificate of Assuming Insurer

FORM AR-1
CERTIFICATE OF ASSUMING INSURER

I, _____, _____
(name of officer) (title of officer)

of _____, the assuming insurer
(name of assuming insurer)

under a reinsurance agreement(s) with one or more insurers domiciled in Illinois, hereby certify that

_____("Assuming Insurer"):
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in Illinois for the adjudication of any issues arising out of the reinsurance agreement(s), agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement(s) to arbitrate their disputes if such an obligation is created in the agreement(s).

2. Designates the Director of the Illinois Department of Insurance as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement(s) instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the Director of the Illinois Department of Insurance to examine its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in Illinois reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the Director at least once per calendar quarter.

Dated: _____ _____
(name of assuming insurer)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULE

BY: _____
(name of officer)

_____
(title of officer)

DEPARTMENT ON INSURANCE

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Letters of Credit

2) Code Citation: 50 Ill. Adm. Code 1102

3) Section Number: Adopted Action:

1102.10	Repealed
1102.20	Repealed
1102.30	Repealed
1102.40	Repealed
1102.50	Repealed
1102.60	Repealed

4) Statutory Authority: Implementing Sections 173 and 173.1 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/173 and 173.1].

5) Effective Date of rulemaking: January 1, 1996

6) Does this Repealer contain an automatic repeal date? Yes, the automatic repeal date is January 1, 1996.

7) Does this Repealer contain incorporations by reference? No

8) Date filed in Agency's Principal Office: December 19, 1995

9) Notice of Proposal Published in Illinois Register: September 15, 1995, 19 Ill. Reg. 12921

10) Has JCAR issued a Statement of Objections to this Repealer? No

11) Difference(s) between proposal and final version: No changes have been made during the rulemaking process.

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this Repealer replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of rulemaking: Part 1102 is being repealed and replaced by Part 1104 which authorizes domestic insurance companies to receive credit for reserves on ceded risks pursuant to Sections 173 and 173.1 of the Illinois Insurance Code [215 ILCS 5/173 and 173.1].

16) Information and questions regarding this adopted Repealer shall be directed to:

DEPARTMENT ON INSURANCE

NOTICE OF ADOPTED REPEALER

Cindy Stephenson
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 782-1785

The full text of the Adopted Repealer beings on the next page.

COMMISSIONER OF SAVINGS AND RESIDENTIAL FINANCE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Residential Mortgage License Act of 1987

2) Code Citation: 38 Ill. Adm. Code 1050

3) Section Numbers: Adopted Action:

1050.425 Amendment

4) Statutory Authority: Implementing and authorized by the Residential Mortgage License Act of 1987 [207 ILCS 635].

5) Effective Date of Rulemaking: January 1, 1996

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: September 28, 1995

9) Notice of Proposal Published in Illinois Register: October 13, 1995, 19 Ill. Reg. 14348

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: Frequency of examination requirements in the existing rules, which were inadvertently deleted by the proposed amendment as originally filed, were restored. The only other changes made were technical and formatting changes recommended by JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes. All the changes agreed upon by the Agency and JCAR have been made.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The amendment to Section 1050.425 outlines new requirements governing the manner and frequency of licensee examinations conducted by the Commissioner's Office. P.A. 89-355 amended the Act to delete certain existing statutory examination requirements. Instead, P.A. 89-355 provided that licensees "shall be examined for compliance with the Act as often as the Commissioner deems necessary and proper. The Commissioner shall promulgate rules with respect to the frequency and manner of examination." The amendment to Section 1050.425 implement this new statutory language. P.A. 89-355 was intended in part to allow the Commissioner's Office to focus resources for examination

COMMISSIONER OF SAVINGS AND RESIDENTIAL FINANCE

NOTICE OF ADOPTED AMENDMENTS

activities on those licensees most in need of regulatory oversight. To that end, the amendment includes provision for the use of mail-in exams for higher rated licensees so that on-site examination activities can be focused on lower rated licensees.

16) Information and questions regarding this adopted amendment shall be directed to:

John Arthur
Office of the Commissioner of Savings
and Residential Finance
500 East Monroe, Suite 800
Springfield, IL 62701-1509
(217) 782-6181

The full text of the Adopted Amendment begins on the next page:

COMMISSIONER OF SAVINGS AND RESIDENTIAL FINANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER VIII: COMMISSIONER OF SAVINGS AND RESIDENTIAL FINANCE

PART 1050
RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

SUBPART A: DEFINITIONS

Section
1050.110 Act
1050.115 Administrative Decision
1050.120 Assisting
1050.125 Commissioner
1050.130 Control
1050.135 Document
1050.140 Employee
1050.145 First Tier Subsidiary
1050.150 Hearing Officer
1050.160 Material
1050.165 Other Regulatory Agencies
1050.170 Party
1050.175 Principal Place of Business
1050.185 State

SUBPART B: FEES

Section
1050.210 License Investigation Fees
1050.220 License Fees
1050.230 Amended License Fees - Corporate Changes
1050.240 Duplicate Original License Fees
1050.250 Examination Fees
1050.260 Additional Full-Service Office Fees
1050.270 Hearing Fees
1050.280 Late Fees (Repealed)
1050.290 Manner of Payment

SUBPART C: LICENSING

Section
1050.310 Application for an Illinois Residential Mortgage License
1050.320 Application for Renewal of an Illinois Residential Mortgage License
1050.330 Waiver of License Fee
1050.340 Full-Service Office
1050.350 Additional Full-Service Office

COMMISSIONER OF SAVINGS AND RESIDENTIAL FINANCE

NOTICE OF ADOPTED AMENDMENTS

SUBPART D: OPERATIONS AND SUPERVISION

Section
1050.410 Net Worth
1050.420 Line of Credit (Repeal)
1050.425 Examination Frequency
1050.430 Late Audit Reports
1050.440 Escrow
1050.450 Audit Workpapers
1050.460 Selection of Independent Auditor
1050.470 Proceedings Affecting a License
1050.475 Change in Business Activities
1050.480 Change of Ownership, Control or Name or Address of Licensee
1050.490 Bonding Requirements

SUBPART E: ANNUAL REPORT OF MORTGAGE ACTIVITY, MORTGAGE BROKERAGE ACTIVITY AND MORTGAGE SERVICING ACTIVITY

Section
1050.610 Filing Requirements
1050.620 Reporting Forms
1050.630 Annual Report of Mortgage Activity
1050.640 Annual Report of Brokerage Activity
1050.650 Annual Report of Servicing Activity
1050.660 Verification

SUBPART F: FORECLOSURE RATE

Section
1050.710 Computation of National Residential Mortgage Foreclosure Rate
1050.720 Computation of Illinois Residential Mortgage Foreclosure Rate
1050.730 Excess Foreclosure Rate
1050.740 Foreclosure Rate Hearing
1050.750 Commissioner's Authority - Unusually High Rate

SUBPART G: SERVICING

Section
1050.810 New Loans
1050.820 Transfer of Servicing
1050.830 Real Property Tax and Hazard Insurance Payments
1050.840 Payment Processing
1050.850 Toll-Free Telephone Arrangement
1050.860 Payoff of Outstanding Mortgage Loan

SUBPART H: ADVERTISING

Section

COMMISSIONER OF SAVINGS AND RESIDENTIAL FINANCE

NOTICE OF ADOPTED AMENDMENTS

1050.910 General Prohibition
1050.920 Definition of Advertisement
1050.930 Compliance with Other Laws
1050.940 Requirements
1050.950 Misleading and Deceptive Advertising Prohibition

SUBPART I: LOAN BROKERAGE PRACTICES

Section
1050.1010 Loan Brokerage Agreement
1050.1020 Loan Brokerage Disclosure Statement
1050.1030 Prohibited Practice

SUBPART J: LOAN APPLICATION PRACTICES

Section
1050.1110 Borrower Information Document
1050.1120 Description of Required Documentation
1050.1130 Maintenance of Records (Repealed)
1050.1140 Loan Application Procedures
1050.1150 Copies of Signed Documents
1050.1160 Confirmation of Statements
1050.1170 Cancellation of Application
1050.1175 Maintenance of Records

SUBPART K: GENERAL LENDING PRACTICES

Section
1050.1210 Notice to Joint Borrowers
1050.1220 Inaccuracy of Disclosed Information
1050.1230 Changes Affecting Loans in Process
1050.1240 Prohibition of Unauthorized Lenders
1050.1250 Good Faith Requirements

SUBPART L: COMMITMENT AND CLOSING PRACTICES

Section
1050.1305 Approval Notice
1050.1310 Inconsistent Conditions Prohibited
1050.1315 Avoidance of Commitment
1050.1320 Charges to Seller
1050.1325 Intentional Delay
1050.1330 No Duplication to Borrower of Seller's Costs
1050.1335 Fees and Charges Prior to Closing
1050.1340 Refunds on Failure to Close
1050.1345 Representative at Closing
1050.1350 Compliance with Other Laws
1050.1355 Failure to Close - Disclosure

COMMISSIONER OF SAVINGS AND RESIDENTIAL FINANCE

NOTICE OF ADOPTED AMENDMENTS

1050.1360 Escrow Account Agreements at Closing

SUBPART M: EXEMPTION GUIDELINES

Section
1050.1410 General
1050.1420 Interpretative Guidelines

SUBPART N: ADMINISTRATIVE HEARING PROCEDURES

Section
1050.1510 Applicability
1050.1520 Definitions
1050.1530 Filing
1050.1540 Form of Documents
1050.1550 Computation of Time
1050.1560 Appearances
1050.1570 Request for Hearing
1050.1580 Notice of Hearing
1050.1590 Service of the Notice of Hearing
1050.1595 Bill of Particulars or Motion for More Definite Statement
1050.1600 Motion and Answer
1050.1610 Consolidation and Severance of Matters - Additional Parties
1050.1620 Intervention
1050.1630 Postponement or Continuance of Hearing
1050.1640 Authority of Hearing Officer
1050.1650 Bias or Disqualification of Hearing Officer
1050.1660 Prehearing Conferences
1050.1670 Discovery
1050.1680 Subpoenas
1050.1690 Conduct of Hearing
1050.1700 Default
1050.1710 Evidence
1050.1720 Hostile Witnesses
1050.1730 Record of Proceedings
1050.1740 Briefs
1050.1750 Hearing Officer's Recommendation
1050.1760 Order of the Commissioner
1050.1770 Rehearings and Reopening of Hearings
1050.1790 Costs of Hearing

AUTHORITY: Implementing and authorized by the Residential Mortgage License Act of 1987 [205 ILCS 635].

SOURCE: Filed January 18, 1974; amended at 2 Ill. Reg. 2, p. 1, effective January 16, 1978; codified at 8 Ill. Reg. 4524; amended at 9 Ill. Reg. 17393, effective October 24, 1985; Part repealed by emergency rule at 12 Ill. Reg.

COMMISSIONER OF SAVINGS AND RESIDENTIAL FINANCE

NOTICE OF ADOPTED AMENDMENTS

3041, and new Part adopted by emergency rule at 3079, effective January 13, 1988, for a maximum of 150 days; Part repealed at 12 Ill. Reg. 8683, and new Part adopted at 12 Ill. Reg. 8685, effective May 10, 1988; emergency amendment at 12 Ill. Reg. 9721, effective May 18, 1988, for a maximum of 150 days; adopted at 12 Ill. Reg. 17093, effective October 11, 1988; amended at 13 Ill. Reg. 17056, effective October 20, 1989; amended at 15 Ill. Reg. 8580, effective May 28, 1991; emergency amendment at 16 Ill. Reg. 2915, effective February 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10463, effective June 23, 1992; emergency amendment at 16 Ill. Reg. 12634, effective August 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 20179, effective December 9, 1992; amended at 17 Ill. Reg. 3513, effective March 2, 1993; transferred from Chapter III, 38 Ill. Adm. Code 450 (Commissioner of Savings and Loan Associations) to Chapter VIII, 38 Ill. Adm. Code 1050 (Commissioner of Savings and Residential Finance) pursuant to Savings Bank Act [205 ILCS 205] at 17 Ill. Reg. 4475; emergency amendment at 19 Ill. Reg. 11080, effective July 13, 1995, for a maximum of 150 days; emergency expired December 11, 1995; amended at 19 Ill. Reg. 15465, effective October 31, 1995; amended at 20 Ill. Reg. 393, effective JAN 0 1 1996.

SUBPART D: OPERATIONS AND SUPERVISION

Section 1050.425 Examination Frequency

a) As part of each regularly scheduled examination the Commissioner shall evaluate and rate licensees, for purposes of scheduling the next regular examination, in accordance with uniform rating factors.
b) Composite ratings shall include but not be limited to:
   1) Composite "1". Licensees in this group had no violations noted during the examination; any findings or comments were of a minor nature. Such licensees evidence strong financial condition and management skills.
   2) Composite "2". Licensees in this group had violations noted which are correctable in the normal course of business.
   3) Composite "3". Licensees in this category exhibit either compliance, financial or operational weaknesses which give cause for remedial action to correct the weaknesses.
   4) Composite "4". Licensees in this group have compliance violation(s) which are not being addressed or resolved by the licensee. Licensees in this category require urgent and decisive corrective measures.
   5) Composite "5". This category is reserved for licensees with deficiency(s) or uncorrected violations critical enough to support conservatorship, suspension, or revocation. Some examples might include, but are not be limited to: ability to demonstrate net worth, failure to procure required bond(s), fraudulent mortgage practices, fraudulent application for licensure, and being subject to other regulators' disciplinary or enforcement actions.

COMMISSIONER OF SAVINGS AND RESIDENTIAL FINANCE

NOTICE OF ADOPTED AMENDMENTS

c) All licensees shall be examined twice upon receiving an original license. The first examination shall be during the first 12 months of operation, shall be primarily educational in nature, shall be on-site, and there shall be no charge. A second exam shall be made within 12 months after the above referenced first exam. This shall be a full compliance on-site exam and shall result in a rating as referenced above in subsection (b) and will be charged at the rate referenced. ~~Pursuant to Section 4-2 of the Act, all licensees shall be examined at least once every 36 months. licensees~~ Thereafter, licensees shall have a frequency of regular examinations at least as follows:

Rating	Frequency of Examination At least once every
1	36 months
2	30 months
3	24 months
4	12 months
5	Continual monitoring for immediate remedial action

d) For those licensees who receive a rating of "1" or "2" as defined in subsection (b) above during their second regularly scheduled exam, the Commissioner may elect to schedule future exams as mail-in exams so long as they maintain a 1 or 2 composite rating. ~~Notwithstanding the rating assigned a licensee in accordance with subsection (b) above, the Commissioner may:~~

~~1) examine on a more frequent basis pursuant to Section 4.2(a) of the Act; and~~

~~2) change the composite rating upon evidence of activity that would prompt a different rating.~~

e) For the licensees who have a composite rating of "3" after their latest exam, the Commissioner shall determine whether their exam shall be mail-in or on-site on a case by case basis.

f) For those licensees who have a composite rating of "4" after their latest exam, the Commissioner shall schedule an on-site exam within 12 months after their latest exam.

g) For those licensees who have a composite rating of '5' after their latest exam, the Commissioner shall require continuous monitoring for immediate remedial action.

h) Mail-in exams shall consist of:

1) all disclosure documents required for the origination, processing, closing and funding of mortgage loans secured by Illinois residential real estate;
2) names, addresses and telephone numbers of investors;
3) organizational and administrative records and documents;
4) numerical data on applications;
5) proof of insurance coverage and net worth maintenance;

COMMISSIONER OF SAVINGS AND RESIDENTIAL FINANCE

NOTICE OF ADOPTED AMENDMENTS

6) descriptions and documents pertinent to pending or threatened litigation;
7) up-front fee practices including escrow account information;
8) default foreclosure and repurchase information;
9) reverification of any data previously submitted on the most recent license application; and
10) any other records or documents which the Commissioner deems necessary to effectuate the purposes and policy as identified at Section 1-2 of the Act.

i) Notice of a mail-in exam will be given at least 30 days prior to the due date.

j) Completed mail-in exams, including all required documents, shall be returned on or before the required return date listed on the notice.

1) Failure to submit the mail-in exams on the due date required will result in a penalty fee being assessed by the Commissioner's office of $50 per day.
2) A penalty fee shall be assessed if the documents and files submitted with the mail-in examination or the examination itself are incomplete when submitted to the Commissioner's office. The penalty fee shall be $50 per day until such time as all documents are complete.

k) All licensees shall utilize forms provided by the Commissioner to respond to the mail-in exam notices.

l) Whenever a mail-in exam is allowed, the Commissioner shall require a drop-in on-site exam on all 3-rated licensees and may order a drop-in on licensees rated 1 or 2 at any time to determine that the mail-in documents and files are accurate as submitted and reflective of the actual practices of those licensees.

m) Whenever a mail-in exam is allowed, the Commissioner shall order an on-site exam at any time whenever the Commissioner believes that such an on-site exam would be beneficial to uphold the purposes of the Act. The Commissioner shall order an on-site exam in cases where:

1) there is a documented failure to follow rate-lock rules;
2) whenever licensees are required to repurchase loans;
3) there is documented evidence of Section 3-8 violations;
4) a criminal conviction of licensee involving financial fraud comes to the attention of the agency;
5) licensees', gross delinquency rates exceeds 5% in the preceding calendar year; and
6) when the licensee has 10 or more consumer complaints in any calendar year wherein the Commissioner's office has found in favor of the consumer.

n) Other instances in which the Commissioner may order an on-site exam are: whenever the Commissioner receives a significant number of consumer complaints regarding a licensee; a change in ownership of a licensee; an internal industry complaint regarding a licensee; other governmental inquiries, failure to maintain or demonstrate net worth, notice of cancellation of surety bond or fidelity bond, vendor

COMMISSIONER OF SAVINGS AND RESIDENTIAL FINANCE

NOTICE OF ADOPTED AMENDMENTS

complaints, any discrepancies noticed in the mail-in exam in a timely fashion, etc.

(Source: Amended at 20 Ill. Reg. 388, effective JAN 01 1996)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Safety Responsibility Law

2) Code Citation: 92 Ill. Adm. Code 1070

3) Section Numbers: Adopted Action:

1070.40 Amendment

4) Statutory Authority: Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 5/2-104(b)] and Section 6-104(a) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-104(a)].

5) Effective Date of Rulemaking: December 20, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: December 20, 1995

9) Notice of Proposal Published in Illinois Register: 19 Ill. Reg. 13543 (October 29, 1995).

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: At the direction of the Joint Committee on Administrative Rules, at line 77 through 79, the stylistic change was incorporated.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This proposed rule is being amended in order to eliminate the security deposit receipt requirement for deposit disposition. Under our current rule, the original receipt or Affidavit for Lost Receipt is required before our office can release the security deposit when bankruptcy is filed and when the depositor is directing payment. Elimination of this requirement would make our procedure less bureaucratic and more convenient for our customers. As stated in Section 1070.40(c), when the depositor files bankruptcy, the security is refunded when we receive a copy of the bankruptcy notice and the receipt. As specified in 625 ILCS 5/7-211(3), bankruptcy relieves the person of the Safety Responsibility requirement. It is the bankruptcy document which

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

should trigger the refund. The receipt, which is on microfilm with the file, has no bearing on the refund process. One of the more common methods of refunding security deposits is specified in Section 1070.40(d). Under this Section the depositor is directing the Secretary of State to release the money to the claimant (i.e., the person suffering damages). We know the deposit was made and our records include a copy of the receipt. To require the depositor to submit the original receipt or Affidavit for Lost Receipt is an unnecessary burden for our customer.

16) Information and questions regarding this adopted amendment shall be directed to:

Name: Mark A. Novak
Address: Assistance Counsel to the Secretary
2701 S. Dirksen Parkway
Springfield, Illinois 62723
Telephone: 217/782-5356

The full text of the Adopted Amendment begins on the next page:

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1070
ILLINOIS SAFETY RESPONSIBILITY LAW

Section
1070.10 Forms of Security
1070.20 Future Proof
1070.30 Installment Agreements
1070.40 Disposition of Security
1070.50 Failure to Satisfy Judgment
1070.60 Release From Liability
1070.70 Incomplete Unsatisfied Judgment
1070.80 Driver's License Restriction for Exclusive Operation of Commercial Vehicles
1070.90 Dormant and Dead Judgments
1070.100 Bankruptcy

AUTHORITY: Implementing and authorized by the Illinois Safety Responsibility Law [625 ILCS 5/Ch. 7].

SOURCE: Filed and effective December 17, 1971; codified at 6 Ill. Reg. 12674; repealed at 7 Ill. Reg. 13678, effective October 14, 1983; New Part adopted at 11 Ill. Reg. 20215, effective November 30, 1987; amended at 14 Ill. Reg. 6859, effective April 24, 1990; amended at 14 Ill. Reg. 10107, effective June 12, 1990; amended at 15 Ill. Reg. 15083, effective October 8, 1991; amended at 16 Ill. Reg. 2172, effective January 24, 1992; amended at 17 Ill. Reg. 8517, effective May 27, 1993; amended at 18 Ill. Reg. 10909, effective June 28, 1994; amended at 20 Ill. Reg. _____, effective DEC 21 1995.

Section 1070.40 Disposition of Security

a) For purposes of this Section, the following definitions shall apply:

~~"Affidavit of Lost Receipt" - the form utilized when the receipt is lost. It shall contain the name and address of the party, the amount of security deposited, the date and location of the accident, and the receipt number and date.~~

"Claim" - a demand for something rightfully or allegedly due.

"Claimant" - person or persons making claim.

"Default" - failure to make a payment when due.

"Department" - Department of Driver Services within the Office of the Secretary of State.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

"Discharged in Bankruptcy" - a legal order for release from a debt or debts.

"Installment Agreement" - agreement to pay debt in payments pursuant to Section 7-208 of the Illinois Safety Responsibility Law.

"Judgment Creditor" - person who is owed money due to a court judgment in his/her favor.

"Proper Notice" - notice provided by, but not limited to any of the following: Petition in Bankruptcy; Notice of Meeting of Creditors; Schedule A-3 of Schedule of Creditors;Trustee Report of No Assets; Discharge of Bankruptcy; Notice of Automatic Stay; Chapter 13 Wage Earner Plan.

"Release" - to give up or surrender a claim.

"Security" - deposit made to satisfy any potential judgment or judgments for money damages following an accident as provided in Section 7-201 of the Illinois Safety Responsibility Law.

b) If a person has security deposited with the Department and the Department subsequently receives proper notice that the person has filed a petition for bankruptcy, then the Department shall forward the posted security directly to the bankruptcy court for disbursement during the normal course of the bankruptcy proceedings, and so provide notification to the debtor.

c) If a person has security deposited with the Department and the claim for which the security was deposited has been discharged in bankruptcy without proper notice having been provided the Department, then upon application by the depositor, the security shall be refunded to the depositor if the Department receives ~~any one but not limited to the following: original receipt for the security deposited, or affidavit of lost receipt on a form approved by the Department, and~~ documentation representing that the claim for which the security was deposited has been discharged, or the bankruptcy court's order of discharge listing the discharged parties and claim.

d) A person posting a security who wishes to have the security released to a party or parties other than himself/herself shall provide to the Department a notarized letter directing payment to the claimant(s), ~~and either the original receipt for the security deposit, an affidavit of lost receipt on a form supplied by the Department, or other acceptable documents~~. The person who is to receive the deposit shall send to the Department a notarized release for the amount of the deposit before payment will be made.

e) A security deposit shall be released by the Department after the Department receives a court order directing payment as provided in Section 7-214 of the Illinois Safety Responsibility Law [625 ILCS

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

5/7-214].

f) If a security deposit is refunded because a person enters into an installment agreement and that person later defaults, the Department shall suspend the driving privileges and/or registration of that person until he/she redeposits the original amount of security or meets the other requirements set forth in Section 7-208(c) of the Illinois Safety Responsibility Law.

g) A security deposit shall be refunded if the Department receives a notice of rescind of certification from the Illinois Department of Transportation, or an order of exoneration from the Department of Administrative Hearings.

h) A security deposit shall also be refunded if the Department receives a certified court order indicating the security deposit should be refunded because the judgment has been satisfied, the case has been dismissed, or the party posting the security is not liable.

i) A security deposit shall be refunded if no legal action has been taken within two (2) years after the date of the accident and the Department receives a notarized affidavit from the person depositing the security stating that to the best of his/her knowledge, he/she has not been or is not being sued. To verify this, the Department shall send the interested party a letter and give him/her two (2) weeks to respond. If he/she responds that he/she has not sued or does not respond, the Department shall close the case and refund the security deposit. If the interested party responds with a copy of the summons and complaint indicating court action has been initiated within two (2) years from the date of the accident, the security shall not be refunded to the depositor.

j) Upon application by a judgment creditor seeking to obtain a security deposit, the Department shall notify the party who deposited the security or his/her authorized representative of the receipt of the unsatisfied judgment and that the security deposited shall be used toward satisfying the judgment, unless thence notified within 14 days by the party who deposited the security that the judgment has otherwise been satisfied. If no adequate response is obtained from the person who has deposited security, then the Department shall release the deposit to the judgment creditor or his/her authorized representative upon receipt of a certified full or partial satisfaction of judgment.

k) If the security deposit so released pursuant to an unsatisfied judgment received by the Department only comprises a partial satisfaction of judgment, the remainder shall be paid by the driver or party posting the deposit or the driver shall be suspended. His/her driving privileges and vehicle registration shall not be restored until proof of satisfaction of judgment is submitted to the Department and future proof of financial responsibility is filed for judgments in the amount of $500.00 or more.

l) A surety bond shall be terminated if no legal action has been taken within two (2) years after the date of an accident, if the Department

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

receives from a person a letter for termination of a surety bond stating that to the best of his/her knowledge he/she has not been or is not being sued. To verify this the Department shall send the interested party a letter and give him/her two (2) weeks to respond. If he/she responds that he/she has not been sued or does not respond, the Department shall terminate the surety bond. If the interested party responds with a copy of the summons and complaint indicating court action has been initiated within two (2) years from the date of the accident, the surety bond shall not be terminated.

m) If a judgment creditor wishes to obtain a payment from a surety bond to satisfy a judgment, he/she shall notify the Safety and Financial Responsibility Section of the Department. The Department shall send a letter to the party who purchased the surety bond and his/her authorized representative informing him/her that the surety bond shall be used toward satisfying the judgment if he/she does not otherwise satisfy the judgment and notify the Department within fourteen (14) days of the procedure used to satisfy the judgment. A copy of the letter shall also be sent to the judgment creditor, his/her authorized representative, and the surety company. The Department shall thereafter make a demand on the surety company for the bond and send a copy of the letter to the judgment creditor and his/her authorized representative. If the surety bond only comprises partial satisfaction of judgment, the remainder shall be paid by the driver or the person who posted the surety bond or the driver's license and/or registration shall be suspended. His/her driving privileges and/or vehicle registration shall not be restored until proof of satisfaction of judgment is submitted to the Department and future proof of financial responsibility is filed for judgments in the amount of $500.00 or more.

(Source: Amended at 20 Ill. Reg. 396, effective DEC 20 1995)

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Procedures of the Department of State Police Merit Board

2) Code Citation: 80 Ill. Adm. Code 150

3) Section Numbers: 150.680 — Adopted Action: Amendment

4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 121, par. 307.13 [20 ILCS 2610/14].

5) Effective Date of Rulemaking: December 22, 1995

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: December 22, 1995

9) Notice of Proposal Published in Illinois Register:

October 6, 1995, 19 Ill. Reg. 13834

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version:

Format changes were made in accordance with the suggestions received from the Administrative Code Unit.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking:

Section 150.680 - This change is needed due to the passing and signing of HB9013 which requires back-pay compensation with interest at a 7% rate, and outlines frivolous litigation issues.

16) Information and questions regarding this adopted amendment shall be directed to:

Name: James E. Seiber, Executive Director
Department of State Police Merit Board

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF ADOPTED AMENDMENTS

Address: 3180 Adloff Lane, Suite 100
Springfield, IL 62703
Telephone: 217/786-6240

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE A: MERIT EMPLOYMENT SYSTEMS
CHAPTER IV: DEPARTMENT OF STATE POLICE MERIT BOARD

PART 150
PROCEDURES OF THE DEPARTMENT OF STATE POLICE MERIT BOARD

SUBPART A: DEFINITIONS

Section
150.10 Definitions

SUBPART B: CERTIFICATION FOR APPOINTMENT

Section
150.210 Qualifications
150.220 Selection Procedures
150.230 Recertification
150.240 Probationary Period

SUBPART C: CLASSIFICATION OF RANKS

Section
150.310 Ranks
150.320 Interdivisional Transfers

SUBPART D: CERTIFICATION FOR PROMOTION

Section
150.410 Board Responsibilities
150.420 Eligibility
150.430 Procedures
150.440 Promotion Probationary Period (Repealed)

SUBPART E: DISCIPLINARY ACTION

Section
150.510 Merit Board Jurisdiction
150.520 Discipline Afforded the Deputy Director
150.530 Notification to Suspended Officer
150.540 Petition for Review
150.550 Form and Content of Petition for Review
150.560 Filing Procedures
150.565 Procedure for Processing Petition for Review
150.570 Director's Review
150.575 Discipline Afforded the Director
150.580 Complaint Procedures
150.585 Scheduling the Hearing

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF ADOPTED AMENDMENTS

150.590 Notification to Officer

SUBPART F: HEARINGS

Section
150.610 Board Docket
150.620 Hearing Officer
150.630 Pre-hearing Conferences
150.640 Motions
150.650 Subpoenas
150.655 Request for Witnesses or Documents
150.660 Evidence Depositions
150.665 Hearing Procedures
150.670 Continuances and Extensions of Time
150.675 Computation of Time
150.680 Decisions of the Board
150.685 Service and Form of Papers

APPENDIX A Vision Standards
APPENDIX B Physical Fitness Standards

AUTHORITY: Implementing Sections 3 through 14 and authorized by Section 8 of the State Police Act [20 ILCS 2610/3 through 14].

SOURCE: Emergency rule adopted at 2 Ill. Reg. 10, p. 206, effective February 24, 1978, for a maximum of 150 days; emergency amendment at 2 Ill. Reg. 32, p. 37, effective July 27, 1978, for a maximum of 150 days; emergency amendments at 2 Ill. Reg. 51, p. 100, effective December 7, 1978, for a maximum of 150 days; adopted at 2 Ill. Reg. 52, p. 422, effective December 25, 1978; amended at 3 Ill. Reg. 47, p. 86, effective November 12, 1979; emergency amendment at 4 Ill. Reg. 6, p. 284, effective February 1, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 2739, effective March 2, 1981; amended at 6 Ill. Reg. 10954, effective August 31, 1982; codified at 7 Ill. Reg. 9900; amended at 7 Ill. Reg. 15018, effective November 2, 1983; emergency amendment at 8 Ill. Reg. 379, effective December 27, 1983, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 3038, effective February 23, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7894, effective May 23, 1984; amended at 9 Ill. Reg. 3721, effective March 13, 1985; amended at 9 Ill. Reg. 14328, effective September 6, 1985; recodified from the Department of Law Enforcement Merit Board to the Department of State Police Merit Board pursuant to Executive Order 85-3, effective July 1, 1985, at 10 Ill. Reg. 3283; amended at 10 Ill. Reg. 17752, effective October 1, 1986; amended at 11 Ill. Reg. 7760, effective April 14, 1987; amended at 11 Ill. Reg. 18303, effective October 26, 1987; amended at 12 Ill. Reg. 1118, effective December 24, 1987; amended at 12 Ill. Reg. 10736, effective June 13, 1988; amended at 13 Ill. Reg. 5201, effective April 3, 1989; emergency amendment at 13 Ill. Reg. 16607, effective September 29, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 19592, effective December 1, 1989; amended at 14 Ill. Reg. 3679, effective February 23, 1990; amended at 15 Ill.

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF ADOPTED AMENDMENTS

Reg. 11007, effective July 15, 1991; amended at 16 Ill. Reg. 11835, effective July 13, 1992; emergency amendment at 16 Ill. Reg. 17372, effective October 29, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 9716, effective June 10, 1993; expedited correction at 17 Ill. Reg. 14684, effective June 10, 1993; amended at 17 Ill. Reg. 21079, effective November 22, 1993; amended at 19 Ill. Reg. 6679, effective May 1, 1995; amended at 19 Ill. Reg. 7970, effective June 1, 1995; amended at 20 Ill. Reg. 403, effective DEC 22 1995.

SUBPART F: HEARINGS

Section 150.680 Decisions of the Board

All decisions of the Board as *to guilt or innocence* will be announced within thirty (30) days after receipt of the Hearing Officer's proposal for decision. All decisions of the Board with respect to penalty will be announced within thirty (30) days after receipt of the Hearing Officer's report on the evidence and/or argument submitted in aggravation or mitigation of the penalty, as outlined below:

a) After the hearing on a Complaint, the Board shall render a written decision outlining the findings of fact upon which the decision is based and mail it by either registered or certified mail, return receipt requested, to the officer charged. A copy of said decision shall be mailed to the Director. The decision will find the officer guilty, if the charges are established by a preponderance of the evidence, or not guilty. If the Board finds the officer guilty of any or all of the accusations included in the Complaint, and reservation has been made concerning the opportunity to present evidence in aggravation or mitigation of the penalty, the Board shall then remand the case to the Hearing Officer for the purpose of taking additional evidence and/or argument. Thereafter the Hearing Officer shall promptly submit a report to the Board on the evidence and/or argument submitted in aggravation or mitigation of the penalty. The Board will promptly order the officer's discharge, demotion, or a suspension for a period of not more than 180 days, or recommend participation in a rehabilitative program, including but not limited to the State Employees Assistance Program, whichever in the opinion of the Board is most applicable. If the officer is found not guilty or has served a period of suspension greater than prescribed by the Board, the Board shall order ~~may instruct~~ that the officer receive compensation for the period involved. The award of compensation shall include interest at the rate of seven percent (7%) per annum. This determination will be based on the final decision of the Board, the officer, and legal counsel after reviewing all pertinent information including, but not limited to, monies due to the state or to third parties involved in the charge(s), and income earned or received by the officer during the period involved. Officers are required to disclose any income earned or received (e.g., public assistance or unemployment compensation)

DEPARTMENT OF STATE POLICE MERIT BOARD

NOTICE OF ADOPTED AMENDMENTS

during the period involved.

b) After the hearing on a Petition for Review, the Board will render a written decision outlining the facts upon which the decision is based, and mail it by either registered or certified mail, return receipt requested, to the officer filing the Petition. A copy of said decision shall be mailed to the Director. The decision will find the officer guilty, if the contents of the Notice of Suspension are established by a preponderance of the evidence, or not guilty. If the Board finds the officer guilty of any or all of the contents of the Notice of Suspension and a reservation has been made concerning the opportunity to present evidence in aggravation or mitigation of the penalty, the Board shall then remand the case to the Hearing Officer for purpose of taking additional evidence and/or argument. Thereafter the Hearing Officer shall promptly submit a report to the Board on the evidence and/or argument submitted in aggravation or mitigation of the penalty. Thereafter, the Board may sustain, reduce, or reverse the action of the Director or Deputy Director; and in the event of reversal or reduction, the Board shall order ~~may direct~~ that the officer receive the pay for the appropriate period involved. The award of compensation shall include interest at the rate of seven percent (7%) per annum. The Board may not increase the extent of disciplinary measures upon appeal of a suspension of up to 30 days. Such decision shall be supported by a statement of findings of fact. A copy of said decision shall be mailed to the attorney(s) of record, the Director and the Deputy Director that initiated the action.

c) The Director shall carry out the order of the Board, and if the accused officer refuses to abide by the order, the Director shall remove the officer forthwith.

d) If the Board finds that a party has made allegations or denials without reasonable cause or has engaged in frivolous litigation for the purpose of delay or needless increase in the cost of litigation, it may order that party to pay the other party's reasonable expenses, including costs and reasonable attorney's fees.

(Source: Amended at 20 Ill. Reg. 104, effective DEC 22 1995)

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Procedural Rules

2) Code Citation: 56 Ill. Adm. Code 5300

3)

Section Numbers:	Emergency Action
5300.40	Amendment
5300.210	Amendment
5300.220	Amendment
5300.400	New Section
5300.515	New Section
5300.520	Amendment
5300.530	Amendment
5300.625	New Section
5300.650	Amendment
5300.660	Amendment
5300.710	Amendment
5300.715	New Section
5300.720	Amendment
5300.725	Amendment
5300.730	Amendment
5300.735	Amendment
5300.750	Amendment
5300.760	Amendment
5300.762	New Section
5300.765	Amendment
5300.910	Amendment
5300.945	New Section
5300.950	Amendment
5300.1110	Amendment
5300.1120	Amendment
5300.1140	Amendment
5300.1145	Amendment
5300.1150	Amendment
5300.1170	New Section

4) Statutory authority: Implementing P.A.s 89-348 and 89-370 and authorized by Section 8-102(E) of the Human Rights Act [775 ILCS 5/8-102(E)]

5) Effective date of amendment: January 1, 1996

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable

7) Date filed in agency's principal office: January 1, 1996

8) Reason for emergency: Public Act 89-348 was signed by the Governor on August 17, 1995. Public Act 89-370 was signed by the Governor on August

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

18, 1995. It was not clear until the bills were signed that they would become law. The changes are quite extensive; H.B. 741, which became P.A. 89-370, was 50 pages long. The Commission works through a Committee structure. Proposed rules had to be drafted by the staff of the Commission for approval by the rules Committee. The Committee's report, in turn, had to be approved by the Full Commission, which meets once per month. The major provisions of the two new laws go into effect on January 1, 1996. There is not enough time before January 1, 1996 to allow for the required comment period. It is important that the Commission have new rules in place when the changes to the Human Rights Act take effect.

9) Complete description of the subjects and issues involved: These rule changes are being proposed to implement P.A.s 89-348 and 89-370, which made extensive changes to the Human Rights Act. The proposed amendments would change the Commission's procedural rules in the following ways:

a) The Commission proposes to add new Sections and to modify other Sections to provide for an alternative hearing procedure where there is no right to appeal the decision of the administrative law judge. A simplified, alternative hearing procedure is specifically authorized by P.A. 89-370.

b) The amendments clarify that where a subpoena is served on a non-party, both the subject of the subpoena and the other party have standing to object to the subpoena.

c) The amendments clarify that where the Department of Human Rights has filed a complaint, the Department would have the authority to move to amend that complaint. The rules also provide that if a complaint is amended, it is up to either the complainant or the Department of Human Rights to serve the amended complaint on the other parties.

d) The amendments clarify that although the types of discovery available to the parties are the same as in circuit court (except for discovery depositions), the procedure for obtaining that discovery is governed by Commission rule, not the Code of Civil Procedure.

e) The amendments change the procedural rules to conform with the amendment to the Human Rights Act which provides that an administrative law judge may not preclude the filing of a motion for summary decision except within the 60-day period prior to the date set for the hearing on the merits of the complaint. The rules also clarify the statutory mandate that such motions must be decided "without delay."

f) The amendments change the procedural rules to conform with the change to the Human Rights Act which provides that if no exceptions are filed to a recommended order and decision, the recommended order becomes the

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

final order of the Commission. Further, even where exceptions are filed, the Commission may decline review.

g) The amendments change the procedural rules to implement the provision in P.A. 89-348 which allows for interlocutory appeals of Commission orders.

10 Are there any proposed amendments to this Part pending? Yes

11) Statement of statewide policy objectives: These emergency amendments do not affect units of local government.

12) Information and questions regarding this amendment shall be directed to:

Gail M. Bradshaw
Executive Director
Illinois Human Rights Commission
James R. Thompson Center
100 West Randolph Street, Suite 5-100
Chicago, IL 60601-3219
(312) 814-6269

The full text of the Emergency Amendments begins on the next page:

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER XI: HUMAN RIGHTS COMMISSION

PART 5300
PROCEDURAL RULES

SUBPART A: INTERPRETATIONS

Section
5300.10 Definition of Terms
5300.20 Computation of Time
5300.30 Service of Pleadings
5300.40 Filing
EMERGENCY
5300.50 Separability

SUBPART B: RECORDS AND WITNESSES

Section
5300.210 Subpoenas
EMERGENCY
5300.220 Access to Commission Records
EMERGENCY

SUBPART C: SETTLEMENTS

Section
5300.310 Settlement Agreements
5300.320 Consideration by Commission
5300.330 Non-Compliance

SUBPART D: REQUEST FOR REVIEW

Section
5300.400 Applicability of the Subpart
EMERGENCY
5300.410 Filing with Commission
5300.420 Notice by Commission
5300.430 Response by Department
5300.440 Reply to Response
5300.450 Extensions of Time
5300.460 Consideration of Request for Review
5300.470 Additional Information or Referral for Hearing
5300.480 Decision
5300.490 Tolling of Time Period
5300.495 Pending Requests

SUBPART E: HEARINGS

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

Section
5300.510 General
5300.515 Election to Proceed Under the Alternative Hearing Procedure
EMERGENCY
5300.520 Conduct of Hearing
EMERGENCY
5300.530 Powers and Duties of Administrative Law Judge
EMERGENCY
5300.540 Ex Parte Communications
5300.550 Form of Pleadings and Other Papers (Repealed)
5300.560 Appearances
5300.570 Place and Manner of Filing Papers (Repealed)

SUBPART F: COMPLAINT AND ANSWER

Section
5300.610 Filing of Complaint
5300.620 Service of Complaint
5300.625 Elections in Real Estate Transaction Cases
EMERGENCY
5300.630 Notice of Hearing
5300.640 Answer
5300.650 Amendments to Pleadings
EMERGENCY
5300.660 Substitution and Addition of Parties
EMERGENCY

SUBPART G: DISCOVERY AND PRACTICE

Section
5300.710 Prehearing Memorandum
EMERGENCY
5300.715 Discovery for Alternative Hearing Procedure Matters
EMERGENCY
5300.720 Discovery
EMERGENCY
5300.725 Filing of Disclosure Information and Discovery Material
EMERGENCY
5300.730 Motions and Objections
EMERGENCY
5300.735 Summary Decision
EMERGENCY
5300.740 Interlocutory Appeals
5300.745 Admission of Fact or of Genuineness of Documents
5300.750 Hearing Procedures
EMERGENCY
5300.760 Preparation of Recommended Order and Decision
EMERGENCY

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

5300.762 Preparation and Issuance of Final Order in Alternative Hearing Procedure Proceedings
EMERGENCY
5300.765 Petitions for Fees and/or Costs
EMERGENCY
5300.770 Settlement (Repealed)
5300.780 Voluntary Dismissal
5300.782 Authority for Sections 5300.783-5300.787 (Repealed)
5300.783 Fees and Costs (Repealed)
5300.784 Motion for Fees or Costs (Repealed)
5300.785 Responses to Motions for Fees or Costs (Repealed)
5300.786 Extensions of Time (Repealed)
5300.787 Supplemented Record (Repealed)

SUBPART H: PRACTICE IN FRONT OF THE COMMISSION

Section
5300.805 Scope of Motion Practice
5300.810 Recommended Order Not Final (Renumbered)
5300.815 Form of Motions and Objections
5300.820 Exceptions to Recommended Order (Renumbered)
5300.825 Presentation of Motions
5300.830 Responses to Exceptions (Renumbered)
5300.835 Emergency Motions
5300.840 Extension of Time (Renumbered)
5300.845 Agreed Motions and Orders
5300.850 Oral Argument (Renumbered)
5300.855 Extension of Time
5300.860 Form of Pleadings and Other Papers (Renumbered)
5300.865 Style of Documents for Commission Consideration
5300.870 Ex Parte Communications (Renumbered)
5300.880 Brief of Department (Renumbered)

SUBPART I: REVIEW OF RECOMMENDED ORDER AND DECISION

Section
5300.910 Finality of Recommended Order ~~Not Final~~
EMERGENCY
5300.920 Exceptions to Recommended Order
5300.930 Responses to Exceptions
5300.940 Extensions of Time
5300.945 Acceptance of the Recommended Order for Review
EMERGENCY
5300.950 Oral Argument
EMERGENCY
5300.960 Form of Pleadings and Other Papers
5300.970 Ex Parte Communications
5300.980 Brief by Department

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

SUBPART J: REMANDMENT

Section
5300.1010 Request to Present Additional Evidence
5300.1020 Motion for Rehearing Before an Administrative Law Judge
5300.1030 Remandment on the Commission's Own Motion
5300.1040 Remand Proceedings
5300.1050 Rehearing Before Full Commission (Renumbered)
5300.1060 Modification of Commission Order (Renumbered)

SUBPART K: ORDER AND DECISION OF THE COMMISSION

Section
5300.1110 Commissioners Participating
EMERGENCY
5300.1120 Standard of Review
EMERGENCY
5300.1130 Proposal for Decision
5300.1140 Order and Decision
EMERGENCY
5300.1145 Interest
EMERGENCY
5300.1150 Rehearing Before Full Commission
EMERGENCY
5300.1160 Modification of Commission Order
5300.1170 Interlocutory Appeals
EMERGENCY

AUTHORITY: Implementing Article 8, 8A and 8B and authorized by Section 8-102(E) of the Illinois Human Rights Act [775 ILCS 5/8-102(E) and Arts. 8, 8A and 8B].

SOURCE: Filed November 15, 1975 by the Fair Employment Practices Commission; emergency amendment at 2 Ill. Reg. 12, p. 11, effective March 24, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 9, p. 40, effective March 1, 1979; amended at 3 Ill. Reg. 15, p. 100, effective April 9, 1979; transferred to the Human Rights Commission by the Illinois Human Rights Act, effective July 1, 1980; emergency amendment at 4 Ill. Reg. 39, p. 334, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 2709, effective March 2, 1981; amended at 7 Ill. Reg. 9298, effective July 25, 1983; codified at 8 Ill. Reg. 18887; amended at 9 Ill. Reg. 6207, effective April 24, 1985; amended at 16 Ill. Reg. 7838, effective June 1, 1992; emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 4, 0 _____, effective JAN 01 1996.

SUBPART A: INTERPRETATIONS

Section 5300.40 Filing

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

EMERGENCY

a) All documents and pleadings required by the Act or this Part to be filed with the Commission shall be deemed filed when received in the Commission's Chicago or Springfield office. An item properly received by mail shall be deemed to have been filed on the date specified in the applicable proof of mailing. Proof of mailing shall be made by filing with the Commission a certificate of the attorney, or the affidavit of a person who is not an attorney, stating the date and place of mailing and the fact that proper postage was prepaid. The certificate or affidavit shall be filed with the Commission at the same time the item to which it refers is filed. If the certificate or affidavit does not accompany an item filed by mail, an item received by mail shall be deemed to have been filed when postmarked, properly addressed and posted for delivery.

b) All papers and copies thereof for filing and service shall be typewritten on white paper 8 1/2 by 11 inches in approximate size. Copies may be reproduced by any printing or duplicating process providing a clear image.

c) Each document shall bear on the first page the caption, descriptive title, the Charge numbers assigned by the Department, and the Administrative Law Section (ALS) file number, and shall identify the Party on whose behalf it is to be filed. For all documents in any matter which is proceeding under the alternative hearing procedure of Section 8A-102.5 of the Act, the words "alternative hearing procedure" and the name of the Administrative Law Judge hearing the matter shall be contained in the caption following the ALS file number. The final page of each document shall contain the name, address, and telephone number of the attorney in active charge of the case, or of the Party if appearing pro se.

d) If the matter is pending before an Administrative Law Judge, the original and one copy of each document shall be filed.

e) Except for a Request for Review and documents in support of a Request for Review, if a document is to be considered by a Commission panel, then the original and five (5) copies of the document must be filed. If the document is to be considered by the full Commission, then the original and fifteen (15) copies must be filed. If a document is a Request for Review or is in support of a Request for Review, then only the original must be filed. The following documents are considered documents in support of a Request for Review: motion for extension of time, response to Request for Review, reply to response to Request for Review, and argument in support of Request for Review.

f) Except as otherwise provided, all pleadings and other papers required to be served on a Party shall be filed as follows:

1) In matters pending before an Administrative Law Judge, such pleadings and papers shall be filed in the Commission office to which that Administrative Law Judge is assigned;

2) If the document is to be considered by a Commission panel or the full Commission, the document shall be filed with the Executive Director in the Commission's Chicago office.

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

(Source: Emergency amendment at 19 Ill. Reg. 419, effective January 1, 1996, for a maximum of 150 days)

SUBPART B: RECORDS AND WITNESSES

Section 5300.210 Subpoenas
EMERGENCY

a) Issuance

1) Subpoenas shall be issued by a Commissioner to compel the attendance of a witness or the production of books, payrolls, records, correspondence, documents, papers or other evidence under the following circumstances:

A) At the instance of the Department to facilitate its investigation of a Charge; or

B) At the instance of a Party to the proceedings, in connection with a hearing convened pursuant to this Part; or

C) At the instance of a Party to the proceedings, solely to obtain the production of books, payrolls, records, correspondence, documents, papers or other evidence from non-parties in anticipation of a hearing convened pursuant to this Part. Subpoenas issued in anticipation of a hearing may issue at any time subsequent to the time all Respondents have answered the Complaint or are required to answer the Complaint and not prior to that time, except by agreement of the Parties or with leave of the Administrative Law Judge. This Section does not confer a right on a Party to take a deposition of any Person.

2) Blank subpoenas may be obtained for use pursuant to this Subsection by applying therefor to the Executive Director. The applicant shall specify the Charge or Complaint for which the subpoena is to be used and the type of subpoena requested.

b) Witness and Mileage Fees - The cost of service and witness and mileage fees shall be borne by the Person requesting the subpoena. Witness and mileage fees shall be the same as are paid witnesses in the circuit courts of the State of Illinois, as set forth in Section 47 of the Fees and Salaries Act [55 ILCS 45/47]~~(Ill. Rev. Stat. 1991, ch. 53, par. 65)~~.

c) Service and Contents - The Person requesting a subpoena shall be responsible for its service on the subpoenaed person by personal service, by registered or certified mail or by leaving a copy at the principal office or place of business of a subpoenaed corporation or partnership. A subpoena shall be served reasonably in advance of its return date. The subpoena shall state the name and address of the Person initiating its issuance, and shall identify the Person, or

evidence subpoenaed and the Person to whom and the place at which, date and time when it is returnable. The Person requesting the subpoena shall also serve a copy of the subpoena upon all Parties of record. Service of the copy of the subpoena on the Parties may be by first-class mail.

d) Petition to Quash or Modify - Within five (5) days after service of a subpoena on any Person and service of copies of the subpoena on the Parties, such Person or any Party may file a petition to quash or modify said subpoena, stating reasons in support of such relief. Such a petition shall be filed with the Commission in the case of a subpoena issued during the Department's investigation of any matter, and with the Administrative Law Judge in the case of a subpoena issued in connection with or in anticipation of a hearing before the Judge. A copy of the petition shall be served at the same time on the Person serving the subpoena. Within five (5) days after service of such petition, or within any longer period that the Commission or a three-member panel or the Administrative Law Judge may order, the serving Party may file an answering statement thereto. A hearing may be held in such a dispute in the discretion of the Commission or Administrative Law Judge. When such a petition is properly filed with the Commission, the Commission may refer the question to an Administrative Law Judge for hearing but the final decision will be by the Commission. Whenever a petition to quash a subpoena is properly filed under this Section, the petitioner shall not be required to respond to such subpoena until the petition has been ruled upon.

e) Enforcement - Whenever any Person shall knowingly fail or refuse to comply with a subpoena served in accordance herewith, the Commission, at the instance of the Person serving the subpoena, shall petition the appropriate circuit court pursuant to Section 8-104(E) of the Act for an order enforcing said subpoena.

(Source: Emergency amendment at 19 Ill. Reg. 419, effective January 1, 1996, for a maximum of 150 days)

Section 5300.220 Access to Commission Records
EMERGENCY

a) Request for Review Records -- Except as otherwise provided in this Part, the record in every charge considered by the Commission on a request for review shall be confidential and not subject to public disclosure; Provided that the parties to such a charge and the Department shall be allowed access to the record upon making suitable arrangements therefor at any time after final disposition by the Commission of the request for review.

b) Hearing Records -- The official record in every Complaint ~~complaint~~ before the Commission or an Administrative Law Judge shall consist of the charge, Complaint ~~complaint~~ and notice of public hearing, and all subsequent pleadings, notices, motions, evidence received and

statements of matters officially noticed, offers of proof and objections and rulings thereon, transcripts, briefs and memoranda received from the parties or the Department for the consideration of the Commission or Administrative Law Judge, orders and decisions and exceptions and responses thereto, and amendments to any of the above. The official record (except such evidence as is placed under protective order by the Administrative Law Judge or the Commission) shall be available for public inspection upon making appropriate arrangements with the Commission employee having custody of such record, at any time after issuance of the notice of hearing. The parties shall have access to the entire official record.

c) Retention of Records -- The Commission shall maintain in its offices all files available for inspection by the public or a party pursuant to subsection (a) and (b) of this Section, for the full period during which such file is active and for an additional period of at least two years from the date when all proceedings (including any proceedings pursuant to the Administrative Review Law [735 ILCS 5/Art. III] ~~[Ill. Rev. Stat., ch. 110 par. 3-101 et. seq.]~~ have been disposed of. Final orders and decisions of the Commission, final orders of Administrative Law Judges in cases under the alternative hearing procedure and orders pursuant to requests for review will be retained as part of the permanent record of the Commission.

d) Copies -- The Commission shall not provide copies of documents which are available for inspection by any person under this Subpart B, except to the extent that extra copies may exist in the Commission's files.

e) Place of Inspection -- Inspection of any files or documents which are available for that purpose shall be permitted only at the office of the Commission at which such file or document is maintained.

(Source: Emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

SUBPART D: REQUEST FOR REVIEW

Section 5300.400 Applicability of the Subpart
EMERGENCY

a) Sections 5300.410 through 5300.495, inclusive, of Subpart D of this Part apply only to requests for review in cases where the perfected charge was filed before January 1, 1996. Pursuant to Section 8-103 of the Act, the Commission does not have jurisdiction over requests for review in cases where the *"cause of action"* was filed on or after January 1, 1996.

b) After January 1, 1996, all requests for review received by the Commission will be evaluated by the staff to determine if the perfected charge in the case was filed on or after January 1, 1996.

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

If the perfected charge was, in fact, filed on or after January 1, 1996, the staff of the Commission will stamp the date the request for review was received by the Commission on the face of that document and then forward it to the Department for processing pursuant to Section 7-101.1 of the Act.

(Source: Emergency amendment at 19 Ill. Reg. 410, effective January 1, 1996, for a maximum of 150 days)

SUBPART E: HEARINGS

Section 5300.515 Election to Proceed Under the Alternative Hearing Procedure EMERGENCY

a) Parties may elect to proceed under the alternative hearing procedure set forth in Section 8A-102.5 of the Act. A unanimous election to proceed under the alternative hearing procedure must be stipulated in writing by all Parties.

b) For any Complaint filed with the Commission after the effective date of this Section, a written election to proceed by right under the alternative hearing procedure must be filed with the Commission on or before 30 days after the filing of all Respondents' answers to the Complaint, unless the Chief Administrative Law Judge on motion and for good cause shown extends the time, and in any event must be filed prior to the service by any Party of any discovery request, whichever comes first.

c) For any Complaint pending before the Commission on or before the effective date of this Section to which all Respondents have not yet answered or all answers were not filed at least 31 days prior and no discovery request has yet been served, a written election to proceed by right under the alternative hearing procedure must be filed with the Commission on or before 30 days after the filing of all Respondents' answers to the Complaint, unless the Chief Administrative Law Judge on motion and for good cause shown extends the time, and in any event must be filed prior to the service by any Party of any discovery request, whichever comes first.

d) For any Complaint pending before the Commission on or before the effective date of this Section to which all Respondents' answers were filed at least 31 days prior or any discovery request has already been served, the Parties may file with the Chief Administrative Law Judge a joint motion requesting leave to elect to proceed thereafter under the alternative hearing procedure; the Chief Administrative Law Judge may, in his/her discretion, grant or deny such motion taking into consideration the present status of the case, the possible judicial economy and the efficient usage of the resources of the Parties and the Commission.

e) Any Party may obtain from the Commission the list of the pool of Administrative Law Judges currently available for the alternative

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

hearing procedure at the Chicago or the Springfield office by telephonic or written request.

f) The written election to proceed under the alternative hearing procedure, signed by all Parties, shall be entitled "Stipulation Of Election Of Alternative Hearing Procedure Pursuant to Section 8A-102.5" and shall state:

The Parties hereby stipulate to proceed under the alternative hearing procedure set forth in Section 8A-102.5 of the Illinois Human Rights Act.

The Parties hereby select Administrative Law Judge _____ to hear this matter; or

The Parties shall inform the Commission in writing of their selection of an Administrative Law Judge within 10 days after the filing of this stipulation. The arties hereby acknowledge that there is no right to vacate or revoke this stipulation except if the selected Administrative Law Judge becomes unavailable to issue a Final Order disposing of the Complaint.

The Parties hereby acknowledge that there shall be only limited discovery available to them as specified in Section 5300.715 of the Commission's Procedural Rules.

The Parties hereby acknowledge that there is no right of appeal from the selected Administrative Law Judge's Final Order disposing of the Complaint based upon a dispositive motion or upon the pleadings and evidence presented at hearing, and hereby waive all right of appeal except for orders procured by fraud or duress.

g) If a selected Administrative Law Judge becomes unavailable due to death, leaving the Commission's employment or any other cause, during the proceeding of a matter and is thereby unavailable to issue a Final Order disposing of the Complaint, within 30 days after the receipt of a written notice of such unavailability from the Commission, the Parties shall inform the Commission in writing of their selection of another Administrative Law Judge to continue proceeding under the alternative hearing procedure on the matter based on the record to date. If the Parties fail to timely select a successor Administrative Law Judge, the matter shall automatically no longer continue under the alternative hearing procedure and shall be reassigned to an Administrative Law Judge by the Chief Administrative Law Judge pursuant to Section 5300.520(b).

(Source: Emergency amendment at 19 Ill. Reg. 410, effective January 1, 1996, for a maximum of 150 days)

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

Section 5300.520 Conduct of Hearing
EMERGENCY

a) All hearings hereunder, including hearings under the alternative hearing procedure, shall be conducted consistent with this Part by an Administrative Law Judge who shall be a licensed attorney appointed to be an Administrative Law Judge for the Commission pursuant to Section 8-102(D) of the Act.

b) The Chief Administrative Law Judge shall assign to an Administrative Law Judge each Complaint ~~complaint~~ or other matter on which hearing is required. The Chief Administrative Law Judge may, in his/her discretion, combine several Complaints ~~complaints~~ or requests for review for purposes of hearing and other proceedings, when it is found that sufficient common issues of fact or law are involved. If the Parties timely elect to proceed by right or are granted leave to proceed under the alternative hearing procedure, the Chief Administrative Law Judge shall, if the selected Administrative Law Judge is other than the Administrative Law Judge to whom the Complaint was originally assigned, reassign the Complaint to the selected Administrative Law Judge for hearing and other proceedings. If a Complaint which was proceeding under the alternative hearing procedure ceases to so proceed due to the unavailability of the selected Administrative Law Judge and the Parties' failure to timely select another, the Chief Administrative Law Judge will reassign the Complaint to an Administrative Law Judge for hearing and other proceedings not under the alternative hearing procedure.

c) All hearings once commenced shall continue on successive work days until completed unless the Administrative Law Judge rules otherwise by announcement at the hearing or by appropriate notice to all parties.

d) All hearings shall be open to the public except hearings upon requests for review.

(Source: Emergency amendment at 19 Ill. Reg. 310, ~~effective~~ effective January 1, 1996, for a maximum of 150 days)

Section 5300.530 Powers and Duties of Administrative Law Judge
EMERGENCY

a) Subject to the provisions of the Act and of this Part, the Administrative Law Judge shall have full authority to govern the procedure of the hearing and to admit or exclude testimony or other evidence.

b) The Administrative Law Judge shall rule on all proper motions and objections by any party from the time the Judge is assigned the matter by the Chief Administrative Law Judge or selected by the Parties electing to proceed under the alternative hearing procedure until the Judge's recommended decision and/or final order is filed with the Commission or issued to the Parties.

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

c) The Administrative Law Judge may exclude from the proceedings any person who engages in improper conduct at the hearing. At the request of any party, the Administrative Law Judge shall exclude all witnesses from the hearing room, except that one representative of each party in addition to counsel shall be allowed to remain throughout.

d) The Administrative Law Judge may grant continuances for good cause shown. Requests for continuance shall be made in writing to the Administrative Law Judge sufficiently in advance of a scheduled hearing to permit reasonable notice to all parties.

(Source: Emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

SUBPART F: COMPLAINT AND ANSWER

Section 5300.625 Elections in Real Estate Transaction Cases
EMERGENCY

When a Complaint is filed under Section 7B-102(F) of the Act, a Complainant, a Respondent, or an Aggrieved Party on whose behalf the Complaint was filed, may elect to have the claims asserted in that Complaint decided in a civil action in a circuit court of Illinois. The election must be made not later than 20 days after the receipt by the electing Person of service of the Complaint by the Commission. The Person making the election shall file it with the Commission and shall give notice of doing so to the Department and to all other Complainants, Respondents and Aggrieved Parties to whom the charge relates. If an election is made, the Commission will act no further on the Complaint. The file on the Complaint will be closed by administrative action. If an election is not made, the Commission will continue proceedings on the Complaint in accordance with the Act and this Part.

(Source: Emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

Section 5300.650 Amendments to Pleadings
EMERGENCY

a) At any time prior to issuance of the Administrative Law Judge's Recommended Order and Decision or Final Order in a case proceeding under the alternative hearing procedure, the pleadings may be amended for good cause shown. A motion to amend under this Subsection shall be in writing, and shall state the specific amendments proposed and the reasons therefor. Where the Department filed the Complaint in the case, a motion to amend the Complaint may be made by either the Department or the Complainant. A motion to amend a pleading shall be served upon all Parties, and upon the Department to the attention of its Chief Legal ~~General~~ Counsel. Where leave is granted to file an amended Complaint, it must be served upon all Parties of record and

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

the Department by the Complainant, or by the Department if it moved to amend, within 7 days after the date of the order granting leave to file the amended Complaint, or within such additional time as the Administrative Law Judge may order. It is not the obligation of the Commission to serve amended Complaints.

b) Amendments to the Complaint may encompass any unlawful discrimination which is like or reasonably related to the charge and grows out of the allegations in such charge, including, but not limited to, allegations of retaliation.

c) A motion made prior to the close of a hearing that a pleading be amended to conform to the evidence may be addressed orally on the record to the Administrative Law Judge conducting the hearing and shall be granted for good cause shown.

d) An amendment to a pleading shall relate back to the date of the filing of the original pleading.

(Source: Emergency amendment at 19 Ill. Reg. 210, effective January 1, 1996, for a maximum of 150 days)

Section 5300.660 Substitution and Addition of Parties
EMERGENCY

a) A Complaint may be amended by the Complainant to substitute or name additional Parties Respondent if such parties are successors or assigns of a named Respondent. Mere misnomer of a Party, however, shall not be grounds for dismissal and may be cured at any time by amendment of the pleadings. A Person may be added as Party Respondent, even if that Person is not a successor or an assign of the named Respondent, if the following terms and conditions are met:

1) The Charge in the case was filed within 180 days after the date of the civil rights violation allegedly committed by the Person sought to be added as a Party Respondent;

2) The failure to join the Person as a Party Respondent was inadvertent;

3) The Person sought to be added as a Party Respondent was given notice of the filing of the Charge at the time the original Charge was filed;

4) The nature of the original Charge was such that the Person sought to be added knew, within the 180 day period, that the Charge grew out of a transaction or occurrence involving or concerning him or her;

5) The addition of the Person sought to be named as a Party Respondent does not raise new factual questions which were not considered by the Department of Human Rights in its investigation; and

6) The cause of action alleged against the Person sought to be made a Party Respondent in the case arises out of the same transaction or occurrence set out in the original Complaint.

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

b) If a Party to a Complaint dies, the proper Party or Parties may be substituted upon motion. If a motion to substitute is not filed within 90 days after the death is suggested of record, the Complaint may be dismissed as to the deceased Party.

c) No Person shall be added as a Party Respondent except as provided in this Section.

d) If substitution of a Party occurs in a matter proceeding under the alternative hearing procedure of Section 8A-102.5 of the Act, the election of the alternative hearing procedure remains effective and is binding on the substituted or successor Party and the matter shall continue to proceed under the alternative hearing procedure.

e) If addition of a Party occurs in a matter proceeding under the alternative hearing procedure of Section 8A-102.5 of the Act, the additional Party shall within 30 days after being made a party in the matter inform the Commission in writing of his/her/its stipulation to continue proceeding under the alternative hearing procedure on the matter before the selected Administrative Law Judge based on the record to date. If the additional Party fails to timely so stipulate, the matter shall automatically no longer continue under the alternative hearing procedure and may be reassigned to another Administrative Law Judge by the Chief Administrative Law Judge.

(Source: Emergency amendment at 19 Ill. Reg. 210, effective January 1, 1996, for a maximum of 150 days)

SUBPART G: DISCOVERY AND PRACTICE

Section 5300.710 Prehearing Memorandum
EMERGENCY

a) The notice of public hearing issued in conjunction with a Complaint ~~complaint~~ shall be accompanied by a description of the contents to be included in a prehearing memorandum ~~form~~ to be completed jointly by the parties. The purpose of the memorandum ~~form~~ shall be to ascertain the positions of the parties and to reach agreements on stipulations of fact, admission of documents and other matters that will expedite the hearing and determination of the Complaint ~~complaint~~. Once the parties have completed the memorandum ~~form~~, the Administrative Law Judge may issue a pre-hearing order reflecting matters agreed to and rulings as to disputed matters. The Administrative Law Judge may waive the preparation of a prehearing memorandum when a party is not represented by counsel. The Administrative Law Judge may order a prehearing conference, if one is deemed necessary.

b) Should a party fail substantially to comply with the directions set out for ~~in~~ the pre-hearing memorandum or fail to appear at a scheduled pre-hearing conference, the Administrative Law Judge, on motion, may file a recommendation of dismissal or default or issue a Final Order disposing of a case proceeding under the alternative hearing procedure

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

or other appropriate order imposing sanctions as justice may require.

(Source: Emergency amendment at 19 Ill. Reg. 410, effective JAN 0 1 1995, for a maximum of 150 days)

Section 5300.715 Discovery for Alternative Hearing Procedure Matters EMERGENCY

a) Initial Disclosure of Information -- For all Complaints proceeding under the alternative hearing procedure, the Parties shall have an initial duty of disclosure as follows:

1) Time of Disclosure and Continuing Duty -- The Parties shall make the initial disclosure required by this rule as fully as then possible within 90 days after the filing of the stipulation to proceed under the alternative hearing procedure unless the Administrative Law Judge, on motion and for good cause shown, shortens or extends the time. Upon service of a disclosure on another Party, the disclosing Party shall file only a notice of the service of the disclosure with the Commission. The duty to provide disclosures as delineated in this rule shall be a continuing duty, and each Party shall seasonably supplement or amend disclosures whenever new or different information or documents become known to the disclosing Party. All disclosures shall include all information and data in the possession, custody and control of the parties as well as that which can be ascertained, learned or acquired by reasonable inquiry and investigation.

2) Prompt Disclosure of Information -- Within the time set forth in this Section 5300.715(a)(1), each Party shall disclose in writing to every other Party:

A) The factual basis of the claim or defense. In the event of multiple claims or defenses, the factual basis of each claim or defense.

B) The names, addresses, and telephone numbers of all persons whom the Party believes may have knowledge or information relevant to the events, transactions or occurrences that gave rise to the action, claim or defense, and the nature of the knowledge or information each such individual is believed to possess.

C) The names, addresses, and telephone numbers of all persons who have given statements regarding the action, claim or defense, whether written or recorded, signed or unsigned, and of the custodian of the copies of those statements.

D) The names, addresses, and telephone numbers of each person whom the disclosing Party expects to call as an opinion witness at trial, the subject matter on which the opinion witness is expected to testify, the conclusions and opinions of the opinion witness and the bases therefor, the

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

qualifications of the opinion witness, and copies of any reports prepared by the opinion witness.

E) A computation and the measure of damages alleged by the disclosing Party and the document or testimony on which such computation and measure are based and the names, addresses, and telephone numbers of all damages witnesses.

F) The existence, location, custodian, and general description of any tangible evidence or documents that the disclosing Party plans to use at trial.

G) A list of the documents, or in the case of voluminous documentary information, a list of the categories of documents, known by a Party to exist whether or not in the Party's possession, custody or control and which that Party believes may be relevant to the subject matter of the action, and those which appear reasonably calculated to lead to the discovery of admissible evidence, and the dates upon which those documents will be made, or have been made, available for inspection and copying. Unless good cause is stated for not doing so, a copy of each document listed shall be served with the disclosure. If production is not made, the name and address of the custodian of the document shall be indicated. A Party who produces documents for inspection shall produce them as they are kept in the usual course of business.

3) Each disclosure shall be made in writing, accompanied by the affidavit of an attorney or a Party which affirmatively states that the disclosure is complete and correct as of the date of the disclosure and that all reasonable attempts to comply with the provisions of this rule have been made. A copy of such affidavit shall be filed with the Commission.

4) In addition to any other sanction the Administrative Law Judge may impose, the Administrative Law Judge shall exclude at hearing any evidence offered by a Party that was not timely disclosed as required by this Section, except for good cause shown.

b) Limited Discovery Procedures -- Except as may otherwise be ordered by the Administrative Law Judge upon motion and for good cause shown, only the following limited discovery is allowed for Complaints proceeding under the alternative hearing procedure. Except as limited herein, the provisions, including service requirements and response time limits, of Section 5300.720 and Section 5300.745 in this Part apply as if fully set out herein.

1) Written Interrogatories -- Each Party may propound to any other Party a total of 20 written interrogatories and supplemental interrogatories in the aggregate, including subparts.

2) Deposition -- An evidence deposition may be taken as of right only under the provisions of Section 8-104(F) of the Act. No discovery deposition may be taken except as allowed by the Administrative Law Judge upon motion and for good cause shown.

3) Production Requests -- Each Party may propound to any other Party a total of 5 requests to produce for inspection, copying or photographing any document, object or tangible thing which is relevant to the subject matter of the Complaint or defense.

4) Requests To Admit -- Each Party may serve on any other Party a total of 10 written requests for the admission by the latter of the truth of any specified relevant fact set forth in the request. Each Party may also serve on any other Party a written request for the admission of the genuineness of any relevant documents described in the request. Copies of the documents shall be furnished with the request unless copies have already been furnished by the requesting Party.

(Source: Emergency amendment at 19 Ill. Reg. 411, effective January 1, 1996, for a maximum of 150 days)

Section 5300.720 Discovery
EMERGENCY

a) For all Complaints not proceeding under the alternative hearing procedure, discovery ~~Discovery~~ shall be obtainable through the following methods:

1) Written Interrogatories -- A Party may direct written interrogatories to any other Party, serving copies of such interrogatories at the same time on all other Parties. Such interrogatories shall be restricted to the subject matter of the Complaint or defense and shall avoid undue detail or the imposition of excessive burden or expense on the answering Party. Within twenty-eight (28) days after service of the interrogatories upon the answering Party, the answering Party shall serve upon the propounding Party an answer under oath or affirmation, or an objection, to each interrogatory, serving copies of such answers and objections at the same time on all other Parties. Any objection to an answer or refusal to answer an interrogatory shall, upon motion of the Party propounding the interrogatory, be ruled upon by the Administrative Law Judge. Where appropriate, a document may be served in answer to an interrogatory. Supplemental interrogatories shall not be allowed except on leave of the Administrative Law Judge for good cause shown.

2) Production, Inspection, Copying or Photographing of Documents and Tangible Things -- A Party, by written request served upon all other Parties, may require any other Party to produce for inspection, copying or photographing any document, object or tangible thing which is relevant to the subject matter of the Complaint or defense. The Party upon whom the request is served shall respond to the request within twenty-eight (28) days, stating with respect to each item or category that inspection and

related activities will be permitted as required, unless the request is objected to, in which event the reasons for objection shall be stated. The response shall be served on all Parties. On motion of the requesting Party, the Administrative Law Judge shall rule with respect to such objections.

3) Depositions

A) A deposition may be taken as of right only under the provisions of Section 8-104(F) of the Act.

B) A Party may take discovery depositions either for good cause shown or by agreement. A discovery disposition taken for good cause or by agreement may be taken only upon leave of the Administrative Law Judge. No Party shall serve a notice of deposition for a discovery deposition without leave of the Administrative Law Judge.

b) Prior to the time all Respondents have answered or are required to answer, no discovery procedure shall be noticed or undertaken except by agreement of the Parties or with leave of the Administrative Law Judge for good cause shown.

c) At any time the Administrative Law Judge may, on his/her own motion or on motion of any Party or witness, make such protective orders as justice and fairness may require, denying, limiting, conditioning or regulating discovery to prevent unreasonable annoyance, expense, embarrassment, disadvantage or oppression.

d) All matters that are privileged against disclosure in civil cases in the courts of the State of Illinois shall be privileged against disclosure through any discovery procedure hereunder. When information or documents are withheld from disclosure or discovery on a claim that they are privileged pursuant to a common law or statutory privilege, any such claim shall be made expressly and shall be supported by a description of the nature of the documents, communications or things not produced or disclosed and the exact privilege which is being claimed.

e) The types ~~Methods~~ of discovery of information from Parties and witnesses shall be the same ~~available to the Parties~~ as in other civil cases in the circuit courts of this State, except as provided for discovery depositions above. The procedure for obtaining discovery of information from Parties and witnesses shall be as specified in this Part. If this Part does not contain a procedure with respect to a particular type of discovery, the Code of Civil Procedure [735 ILCS 5] will be considered persuasive authority by the Commission. Where the Code of Civil Procedure makes reference to *"rules,"* the applicable Supreme Court Rules on discovery will also be considered.

f) The hearing of a matter shall not be delayed to permit discovery unless due diligence is shown.

(Source: Emergency amendment at 19 Ill. Reg. 411, effective January 1, 1996, for a maximum of 150 days)

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

Section 5300.725 Filing of Disclosure Information and Discovery Material
EMERGENCY

a) All disclosures required in cases under the alternative hearing procedure and all requests for discovery and all responses to requests for discovery shall be served upon other counsel or parties, but shall not be filed with the Commission. The party responsible for service of the disclosure information or the discovery material shall serve a copy of a Certificate of Service with the Commission. The party responsible for service of the disclosure information or the discovery material shall retain the original and become the custodian.

b) If a motion is filed with respect to any disclosure information or discovery material, copies of the portions of the material in question shall be filed with the motion.

(Source: Emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

Section 5300.730 Motions and Objections
EMERGENCY

a) Motions and objections directed to the Administrative Law Judge pursuant to the authority granted in Subsection 5300.530(b) of this Part may be stated in writing or on the record except for a motion to amend the pleadings pursuant to Subsection 5300.650(a) of this Part, which must be in writing.
   1) A written motion shall briefly state the order or relief requested and the specific grounds upon which relief is sought.
   2) A written motion shall be served at the same time upon all Parties and filed at the Commission office of the Administrative Law Judge to whom it has been directed.
   3) The following motions shall also be served upon the Department:
      A) Motion to dismiss and any response thereto pursuant to Subsection 5300.640(b) of this Part;
      B) Motion to amend the pleadings pursuant to Subsection 5300.650(a) of this Part; and
      C) Motion to allow a Commission or Department employee to testify at a hearing pursuant to Subsection 5300.750(b)(3) of this Part.

b) Except as provided in Subsection 5300.730(f) of this Part, for motions to dismiss the Complaint and motions for summary decision, responses to written motions may be filed by any Party within five (5) days after service of the motion, or within such other period as the Administrative Law Judge may order, and shall be served at the same time upon all other Parties. In deciding whether to extend the period for responding to the motion, the Administrative Law Judge shall consider the complexity of the issues raised by the motion, and the ability of the responding Party to file a response within the five day

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

period. Except under extraordinary circumstances, the time for responding to a motion shall not exceed forty-five (45) days. The Administrative Law Judge may, on his/her own motion or motion of the Department, enter an order permitting the Department to file a response to a written motion. In deciding whether to allow the Department to file a response, the Administrative Law Judge shall consider:
   1) Whether resolution of the motion raises issues beyond those involved in the specific case;
   2) Whether the Department has an interest different from that of the Complainant or Respondent; and
   3) Whether the Department can articulate a particular point of view better than one or both Parties.

c) Written motions and responses thereto should set forth the arguments and authorities relied upon to permit the Administrative Law Judge to make a decision without oral argument on the motion.

d) Except as provided in Subsection 5300.730(f) of this Part for motions to dismiss and motions for summary decision, except as to motions arising out of Complaints proceeding under the alternative hearing procedure of Section 8A-102.5 of the Act and except for those motions made in the course of public hearing, all motions arising out of Complaints in which the site of the alleged civil rights violation is in Cook County shall be heard at the Commission's office in Chicago. Written Notice of Hearing on such motion shall be filed at the Commission's office in Chicago along with a copy of the motion and served upon all Parties and also upon the Department as specified in Subsection 5300.730(a) of this Part. The Notice of Hearing on the motion shall show the name of the Administrative Law Judge before whom and the date and time when the motion shall be presented. The motion shall be in writing and a copy of the motion or a statement that it previously has been served shall be served with the notice. Copies of all papers to be presented to the Administrative Law Judge with the motion shall be served with the notice or the notice shall state that copies have previously been served. The moving Party shall schedule the motion for hearing by entering the case name, ALS number and the nature of the motion in the motion book in the Commission's Chicago office.
   1) If notice of hearing is given by personal service, the notice shall be delivered before 4:00 P.M. on the second State business day preceding the hearing of the motion.
   2) If notice is given by mail, the notice shall be deposited in a United States Post Office or Post Office Box no later than the fifth State business day preceding the hearing of the motion. The certificate of service attached to the motion will be prima facie proof of the date the notice is placed in a Post Office Box.

e) All motions arising out of Complaints in which the site of the alleged civil rights violation is outside Cook County and all motions arising

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

out of Complaints proceeding under the alternative hearing procedure of Section 8A-102.5 of the Act shall be governed by the procedures specified in Subsections 5300.730(a), (b) and (c) of this Part. These motions shall not be noticed for hearing at the Commission's office in Chicago; however, if all of the Parties to a Complaint, except to a Complaint proceeding under the alternative hearing procedure of Section 8A-102.5 of the Act, in which the site of the alleged discrimination is outside Cook County agree to appear for a hearing on a motion at the Commission's Chicago office, the procedure specified in Subsection 5300.730(d) of this Part may be utilized.

f) Regardless of the site of the alleged civil rights violation, all motions to dismiss the Complaint and all motions for summary decision shall be filed and responded to in accordance with the procedures set forth in Subsection 5300.730(a), (b), and (c) of this Part.

g) All motions on Complaints proceeding under the alternative hearing procedure shall be decided by the selected Administrative Law Judge based on the written motions and responses thereto only, except when the Administrative Law Judge deems oral argument useful; then, the Administrative Law Judge shall issue an order setting a date and time for the motion to be argued. Such oral argument may be set at a Commission office or by telephone conference hearing.

(Source: Emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

Section 5300.735 Summary Decision
EMERGENCY

a) At any time after the service of a Complaint and prior to service of a decision pursuant to Section 8A-102(I), Section 8A-102.5(B)(4) or Section 8B-102(J) of the Act, the Complainant or the Respondent may move with or without supporting affidavits for a summary order in the moving Party's favor as to all or any part of the relief sought. An Administrative Law Judge may not preclude the filing of a motion for summary decision except within the 60-day period prior to the date set for the hearing on the merits of the Complaint. Once the Administrative Law Judge has set a deadline for the filing of the motions for summary decisions in accordance with this Section, no such motion may be filed after that date without leave of the Administrative Law Judge, even if the hearing on the merits is postponed.

b) Procedure - The non-moving Party may file counter-affidavits prior to the time of the ruling on the motion. The order sought shall be rendered without delay if the pleadings and affidavits, if any, show that there is no genuine issue as to any material fact and that the moving Party is entitled to a recommended order as a matter of law. An interim recommended summary order, interlocutory in character, may be rendered on the issue of liability alone, although there is a

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

genuine issue as to the relief to be awarded. The term *"without delay"* means that consideration of the motion shall not be stayed without the agreement of the Parties. Further, the Administrative Law Judge may not postpone consideration of the motion until after the public hearing. The term does not mean that motions for summary decision will be given preference over other pending motions in the case at issue or other cases pending in front of the Commission.

c) Affidavits or Motions Made in Bad Faith - If it appears to the satisfaction of the Administrative Law Judge at any time that any affidavit or motion presented pursuant to this Section is presented in bad faith or solely for the purpose of delay, the Administrative Law Judge may recommend that the Party employing the use of affidavits for dilatory purposes shall pay to the other Party the amount of reasonable expenses incurred as a result of the filing of the affidavit or motion, including reasonable attorney's fees.

(Source: Emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

Section 5300.750 Hearing Procedures
EMERGENCY

a) Adverse Witness -- At the hearing, a witness may be called and examined as if under cross-examination in the same manner and circumstances as provided in Section 2-1102 of the Code of Civil Procedure [735 ILCS 5/2-1102] ~~(111.Rev.Stat.1991, ch.110, par. 2-1102)~~.

b) Testimony and Evidence

1) All testimony taken at the hearing shall be under oath or affirmation.

2) All testimony and other evidence shall be subject to the same rules of evidence as are applicable in courts of record in the State of Illinois.

3) Compelling Appearances of Parties at Hearing - The appearances at the hearing of a Party or a person who at the time of the hearing is an officer, director, or employee of a Party may be required by serving the Party with a notice designating the person who is to appear. The notice also may require the production at the hearing of documents or tangible things. If the Party or Person is a non-resident of the county, the Administrative Law Judge may order any terms and conditions in connection with its appearance at the hearing that are just, including payment of its reasonable expenses. Upon a failure to comply with the notice, the Administrative Law Judge may enter any order that is just.

4) No Commission or Department employee shall testify on behalf of a Party at a hearing with respect to the contents of any files, documents, reports, memoranda or records of the Commission or Department or of the results of any investigation conducted by

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

the Department except upon order of the Administrative Law Judge. Any Party may apply for such an order in the form of a motion and such motion shall identify the Commission or Department employee whose testimony is desired, the nature of such person's testimony, and the specific purpose to be served thereby. The motion will be granted only upon a showing that the information to be elicited from such testimony is admissible and cannot be obtained through other means. A motion to compel a Department employee to testify shall be served by the movant on the Department.

5) No testimony or other evidence concerning attempts to settle or adjust an alleged civil rights violation shall be given or received in any hearing without the written consent of all Parties.

6) Written stipulations, signed by the Parties to be bound thereby, may be introduced in evidence. Oral stipulations may be made on the record.

c) Record of Proceedings -- The Commission shall arrange for a record of the proceedings to be made, transcribed and filed in the Chicago or Springfield office of the Commission. Any such record will be made available for examination by the public in either the Chicago or Springfield office upon reasonable notice.

d) Briefs and Oral Argument -- At the conclusion of the evidence, the Administrative Law Judge shall permit the Parties to argue orally and/or submit such briefs or proposed findings of fact and conclusions of law within such time as the Administrative Law Judge may determine. The Department may request leave to file an amicus brief upon an issue presented by the record in a hearing wherein it is not a Party, upon motion to the Administrative Law Judge, which motion shall be served on all Parties. Such motion shall be granted, and a briefing schedule ordered, if, in the opinion of the Administrative Law Judge, the interests of justice would be served thereby. Each Party filing a brief shall file it with the Administrative Law Judge and at the same time serve copies upon all other Parties.

e) Sanctions for Unreasonable Conduct -- Should a Party fail to appear at a scheduled hearing without requesting a continuance reasonably in advance, or unreasonably refuse to comply with any order entered under ~~Section 5300.720 of~~ this Part, or otherwise engage in conduct which unreasonably delays or protracts proceedings, the Administrative Law Judge may file a recommendation of dismissal with prejudice or default or other appropriate order imposing sanctions as justice may require, including requiring the offending Party or attorney to pay the reasonable expenses and attorney's fees incurred by any other Party as a result of the misconduct. In a case proceeding under the alternative hearing procedure, the Administrative Law Judge may issue a Final Order containing any sanction for unreasonable conduct which the Commission may impose under this Section.

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

(Source: Emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

Section 5300.760 Preparation of Recommended Order and Decision
EMERGENCY

Except for Complaints proceeding under the alternative hearing procedure, following ~~Following~~ the taking of testimony and the submission of oral argument and briefs, the Administrative Law Judge shall prepare and file with the Commission a written Recommended Order and Decision, which shall include:

a) A summary of the respective contentions of the Parties;

b) Findings of fact based upon, and limited to, the testimony and other evidence of record and upon matters of which official notice may be taken pursuant to Section 10-40(c) of the Illinois Administrative Procedure Act [5 ILCS 100/10-40(c)]~~; (111. Rev. Stat. 1991, ch. 127, par. 1010-40(c))~~;

c) A determination as to whether or not a preponderance of the evidence sustains the Complaint, or each portion thereof;

d) An analysis of the case and reasoning to support the Administrative Law Judge's determination;

e) The Administrative Law Judge's Recommended Liability Determination.

1) If it is determined that the preponderance of the evidence supports the Complaint or portions thereof, the recommended order shall sustain the Complaint to that extent and require the Respondent to take such actions as are provided under Section 8A-104 or Section 8B-104 of the Act. If the Complainant is entitled to an award of attorney's fees and costs pursuant to Section 8B-104(D) of the Act, the Administrative Law Judge's recommended decision shall be styled a Recommended Liability Determination and shall direct the Complainant to file a petition for an award of attorney's fees pursuant to the procedure established in Section 5300.765 of this Part. Such Recommended Liability Determination shall promptly be served upon all Parties.

2) If it is determined that the Complaint shall be dismissed and that the Complaint was frivolous, unreasonable or groundless or that the Complainant continued to litigate after it became clearly so and that the Respondent is therefore entitled to an award of attorney's fees pursuant to Section 8A-102(I)(5) of the Act, the Administrative Law Judge's recommended decision shall be styled a Recommended Liability Determination and shall direct the Respondent to file a petition for an award of attorney's fees pursuant to the procedures established in Section 5300.765 of this Part. Such Recommended Liability Determination shall promptly be served upon all Parties~~;~~

f) The Administrative Law Judge's Recommended Order and Decision

1) If it is determined that the preponderance of the evidence does not support the Complaint, the Administrative Law Judge's

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

recommended decision shall dismiss the Complaint and shall constitute the Recommended Order and Decision for review by the Human Rights Commission pursuant to Sections 5300.910 et seq. of this Part.

2) Following submission of materials in connection with any petition for attorney's fees filed as directed in Subsection (e)(1) or (e)(2) of this Section pursuant to Section 5300.765 of this Part, the Administrative Law Judge shall prepare a recommended decision which shall incorporate the Recommended Liability Determination by reference and shall include recommendations as to the amount of reasonable attorney's fees and/or costs and a discussion of the issues relevant thereto. This recommended decision shall constitute the Recommended Order and Decision for review by the Human Rights Commission pursuant to Sections 5300.910 et seq. of this Part.

3) A Recommended Order and Decision that includes a monetary award shall specify the amount recommended to be paid pursuant thereto as of the date of the conclusion of the public hearing and the formula for calculation of supplemental monetary awards, if any. The Commission shall promptly serve a copy of such Recommended Order and Decision upon all Parties and the Department. Service of the Recommended Order and Decision begins the running of time for filing exceptions pursuant to Section 5300.920 of this Part. Following the issuance of the Recommended Order and Decision pursuant to subsection ~~Subsection~~ (f)(1) or (f)(2) of this Section, all pleadings, motions, or other requests shall be directed to the General Counsel of the Human Rights Commission.

(Source: Emergency amendment at 19 Ill. Reg. 611, effective January 1, 1996, for a maximum of 150 days)

Section 5300.762 Preparation and Issuance of Final Order in Alternative Hearing Procedure Proceedings
EMERGENCY

a) For all cases which proceed to public hearing under the alternative hearing procedure of Section 8A-102.5 of the Act, following the taking of testimony and the submission of oral argument and briefs, if any are ordered, the selected Administrative Law Judge shall prepare a written Final Order disposing of the Complaint based upon the pleadings and evidence presented. The Final Order shall include:

1) a determination as to whether a preponderance of the evidence sustains the Complaint or each portion thereof;

2) a brief discussion of the analysis of the case and reasoning to support the Administrative Law Judge's determination with sufficient detail to apprise the Parties as to the basis for the decision; and

3) a determination of the damages and relief, including attorneys

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

fees and costs, to which any Party is entitled.

b) The Final Order need not contain detailed findings of fact and conclusions of law.

c) The Final Order may provide for any relief or penalty identified in Section 8A-104 of the Act.

d) The Final Order shall be issued by the selected Administrative Law Judge and shall be served by the Commission on all Parties and the Department personally or by registered or certified mail.

e) The Final Order entered by an Administrative Law Judge in a case proceeding under the alternative hearing procedure shall be deemed the final decision of the Commission and shall not be subject to review by any three member panel of the Commission nor by the full Commission. Such Final Orders are enforceable in the same manner as Orders And Decisions issued by the Commission.

f) A Party may not apply for and obtain review of a Final Order by filing a petition for review in the Appellate Court pursuant to Section 8-111(A) of the Act except on the basis of fraud or duress. By stipulating to disposition of the Complaint under the alternative hearing procedure, the Parties waive all right of appeal except for orders procured by fraud or duress.

g) The Final Order entered by an Administrative Law Judge in a case proceeding under the alternative hearing procedure shall not be considered Commission precedent.

(Source: Emergency amendment at 19 Ill. Reg. 611, effective January 1, 1996, for a maximum of 150 days)

Section 5300.765 Petitions for Fees and/or Costs
EMERGENCY

a) Within twenty-one (21) days after the service of a Recommended Liability Determination pursuant to subsection ~~Subsection~~ 5300.760(e)(1) or (e)(2) of this Part or pursuant to an order entered after a hearing by the selected Administrative Law Judge in a case proceeding under the alternative hearing procedure, the Party or Parties designated therein may file with the Administrative Law Judge a petition for fees and/or costs, supported by argument and affidavits. Such supporting documentation shall include the following:

1) The number of hours for which compensation is sought, itemized according to the work that was performed, the date upon which the work was performed and the individual who performed such work;

2) The hourly rate customarily charged by each individual for whom compensation is sought and appropriate documentary support for such claimed rate. In the case of a public law office which does not charge fees, or which charges fees at less than market rate, counsel may provide documentation of the rate prevalent in the practice of law for attorneys in the same locale with comparable

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

experience and expertise;

3) Other factors that affect the computation of fees or costs, as determined by the courts of Illinois and the decisions of the Commission; and

4) Documentation of costs for which the Party seeks reimbursement.

b) Copies of such petitions and supporting documents shall be served by the petitioning Party on all other Parties at the time of filing with the Administrative Law Judge, and proof of service shall be provided. Neither fees nor costs will be awarded in the absence of proper petition therefor.

c) Within twenty-one (21) days after the service of the petition for an award of attorney's fees and/or costs, all other Parties may file written objections to the petition. Copies of such objections shall be served on all other Parties at the time of filing with the Administrative Law Judge, and proof of service shall be provided. Failure to file such objections shall be deemed a waiver of any objections to the award of fees. No reply in support of the petition or in response to objections may be filed except upon leave granted by the Administrative Law Judge upon motion and good cause shown.

d) A Party may request additional time to file a pleading governed by this Section by written motion filed with the Administrative Law Judge stating the reasons therefor. Copies thereof shall be served at the same time on all other Parties. Such requests for extension of time shall be granted where good cause is shown.

e) The Administrative Law Judge may convene a hearing to resolve contested issues and may take other steps to produce a complete record with regard to a claim for fees and/or costs.

f) Following the submission of the petition for fees and/or costs and objections thereto and the completion of a hearing, if any, the Administrative Law Judge shall prepare a Recommended Order and Decision pursuant to subsection ~~Subsection~~ 5300.760(f)(2) of this Part or, in a case proceeding under the alternative hearing procedure, shall prepare a Final Order pursuant to Section 5300.762 of this Part.

(Source: Emergency amendment at 19 Ill. Reg. 3470, effective January 1, 1996, for a maximum of 150 days)

SUBPART I: REVIEW OF RECOMMENDED ORDER AND DECISION

Section 5300.910 Finality of Recommended Order ~~Not Final~~
EMERGENCY

If no timely exceptions to the recommended order and decision are filed in accordance with Section 5300.920 of this Part, the recommended order and decision shall become the order of the Commission without further review. The Commission will serve on the Parties a notification that a recommended order and decision has become the order of the Commission pursuant to this Section. The failure to file exceptions to a recommended order and decision shall

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

constitute a waiver of any arguments which could have been made to a Commission panel. A Party who fails to file exceptions shall be deemed to have failed to exhaust administrative remedies. If exceptions are filed, the recommended order and decision will not be considered final unless and until it is made final by a Commission panel pursuant to this Part. ~~The Administrative Law Judge's recommended order and decision shall not constitute a final order determining or disposing of the proceedings. Whether or not exceptions to the recommended order and decision are filed with the Commission as hereinafter provided, the Commission through a three member panel shall review each recommended order together with the record of proceedings prior to issuance of the final order and decision therein. Only the Commission's decision shall be final.~~

(Source: Emergency amendment at 19 Ill. Reg. 3470, effective January 1, 1996, for a maximum of 150 days)

Section 5300.945 Acceptance of the Recommended Order for Review
EMERGENCY

a) Following the filing of written exceptions and responses, a 3-member panel of the Commission shall decide whether to accept the case for review. If the panel declines to review the recommended order and decision, it shall issue a notice to the Parties and enter the notice on the record. Upon the entry of the notice, the recommended order and decision of the Administrative Law Judge shall become the order of the Commission. In that case, all recommendations shall be considered accepted. If the Administrative Law Judge recommended a final disposition of the Complaint and charge, the recommended order and decision shall be considered final and appealable.

b) Where a time limit is calculated based on the date of service of a Commission order, that time limit shall be calculated based on the date of service of the notice that the Commission has declined review. After the entry of the notice described in this Section, references in the Act or this Part to the Order and Decision of the Commission shall be deemed to be references to the recommended order and decision of the Administrative Law Judge.

(Source: Emergency amendment at 19 Ill. Reg. 3470, effective January 1, 1996, for a maximum of 150 days)

Section 5300.950 Oral Argument
EMERGENCY

Any Party to the proceedings shall be permitted to request **present** oral arguments in support or opposition to the Recommended Order and Decision, by including a written demand therefor at the time of filing exceptions or responses as hereinabove provided. If oral arguments are so requested and if the Commission panel decides to review the recommended order and decision, it

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

~~the--Commission~~ shall set a date for such arguments~~,~~ to be heard ~~before-a three-member-panel-of-Commission-members,~~ and shall serve notice in writing of the time and place so fixed to all Parties at least twenty (20) days prior thereto. Any other Party not previously requesting oral argument shall be allowed to present such arguments at the same time and place and should file a written notice of intention to participate with the Commission, with service thereof on all other Parties, not less than ten (10) days prior to the date set. If no Party requests oral argument, and if the Commission panel decides to review the recommended order and decision, it ~~the-three-member-panel~~ shall decide the case based upon the written record unless at least two members of the panel find that oral argument is necessary to resolve an issue presented by the Recommended Order and Decision, the exceptions or the response. In all such cases the Commission shall serve notice of oral argument in writing. The Commission shall arrange for a record of oral arguments to be made, transcribed and filed in its Chicago office as part of the official record in the case.

(Source: Emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

SUBPART K: ORDER AND DECISION OF THE COMMISSION

Section 5300.1110 Commissioners Participating
EMERGENCY

The Commission, through a panel of three members designated by the Chairperson, shall decide whether to review the recommended order and decision of the Administrative Law Judge. If the panel decides to review the recommended order and decision, it shall review the record and render a decision on behalf of the Commission with respect to ~~in~~ all matters covered by the ~~wherein-a~~ recommended order and decision ~~has-been-rendered~~.

(Source: Emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

Section 5300.1120 Standard of Review
EMERGENCY

If a panel accepts a recommended order and decision for review, it ~~The Commission~~ shall accept the findings of fact of the ~~its~~ Administrative Law Judge as true and correct, unless it shall find that such findings or any of them are contrary to the manifest weight of the evidence.

(Source: Emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

Section 5300.1140 Order and Decision
EMERGENCY

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

After a decision has been made to accept a recommended order and decision for review, and after ~~After~~ all proceedings provided for in Subparts I, J and K of this Part, except in cases which proceeded under the alternative hearing procedure, the panel of three Commission members shall issue its Order and Decision and shall serve a copy thereof on all parties and the Department personally or by registered or certified mail. Subject to the provisions of this Article, the Order and Decision of the Commission may affirm, reverse or modify in whole or any part the recommended order and decision.

(Source: Emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

Section 5300.1145 Interest
EMERGENCY

Whenever an Order and Decision, or a Final Order in a case proceeding under the alternative hearing procedure, includes an award of interest pursuant to Section 8A-104(J) of the Act, the amount of interest shall be calculated according to the method set forth in this Section. This method shall also be used when a recommended order and decision includes an award of interest and a panel of the Commission declines review.

a) Liability for interest begins on the first day of the calendar month following the civil rights violation. Interest shall accrue on a monthly basis thereafter. For example, if the violation occurred on June 15, liability for interest would begin on July 1, and the first month's interest would accrue on August 1.

b) The monthly rate of interest shall be 1/12 of the annual rate of interest for judgments specified in Section 2-1303 of the Code of Civil Procedure [735 ILCS 5/2-1303] ~~(111,-Rev.-Stat.-1991,-ch.-110,-par.-2-1303)~~ for the calendar year in which interest accrues.

c) The monthly rate of interest shall be multiplied by the amount of damages which accrued as of the end of the last day of the month preceding the accrual of interest. For example, to calculate the amount of interest which accrues on August 1, one must multiply the monthly rate of interest by the amount of damages which accrued as of midnight on July 31.

d) Interest shall compound annually. For example, if the first month's interest accrued on August 1, 1988, the amount of monthly interest for August 1, 1989 would be calculated by adding the damages and interest which accrued as of July 31, 1989. This sum would then be multiplied by the applicable monthly rate.

e) Interest shall continue to accrue until the payment specified by the Order and Decision has been made.

(Source: Emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

Section 5300.1150 Rehearing Before Full Commission

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

EMERGENCY

a) Within thirty (30) days after service of the Commission's Order and Decision, or a notice that review has been declined, issued in accordance with this Article, a Party may petition for rehearing before the entire Commission.
b) Such petition shall be in writing and filed at the Commission's Chicago office, with service thereof at the same time on all other Parties. The petition shall clearly specify the reasons why rehearing should be granted. The Commission, at its discretion, may order that a response to the petition be filed.
c) The petition, and response if any, shall be reviewed by the entire Commission and shall be granted only by a vote of six (6) Commissioners when it is clear that the petition raises legal issues of significant impact or that panels of the Commission have reached conflicting decisions.
d) The Commission shall issue an Order on every petition, and shall serve a copy thereof on all Parties personally or by registered or certified mail. Whenever a petition for rehearing is granted, the order shall notify the Parties of the time and place of oral argument before the Commission and whether any additional written arguments will be considered. Upon the granting of the petition for rehearing, the Commission's Order and Decision will be vacated.
e) When rehearing has been granted by the Commission in a matter where the Department is not a Party, the Department may request leave to file an amicus brief upon a question of law presented by the petition for rehearing upon motion to the Commission, a copy of which shall be served on all Parties. Such a motion by the Department will be granted by the Commission if it is satisfied that the interests of justice would be served thereby.
f) Whenever rehearing is granted by the Commission in accordance with this Section, the Commission shall issue an Order and Decision en banc in the same manner as provided in Section 5300.1140.

(Source: Emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

Section 5300.1170 Interlocutory Appeals
EMERGENCY

a) If a Party desires to appeal to the appellate court an order of a 3-member panel or the full Commission which is not final, a motion for appropriate findings must be made in writing within 14 days after the date of entry of the order in question. The procedure for consideration of such motions shall be as described in Sections 5300.805 - 5300.865 of this Part.
b) The filing of a motion under this Section does not act as an automatic stay of the order in question. If a Party wants the effect of the

HUMAN RIGHTS COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

order to be stayed while the motion for findings is being considered, this relief must be requested in the motion. If the motion for findings is granted, the Commission will automatically stay proceedings pending a ruling by the appellate court.
c) The 3-member panel or the full Commission will grant the motion for findings if it finds that the order in question involves a question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation.
d) If the Commission makes the required findings, the moving Party must file an application for leave to appeal within 14 days after their entry, in accordance with Supreme Court Rule 308.

(Source: Emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Procedural

2) Code Citation: 56 Ill. Adm. Code 2520

3)

Section Numbers:	Proposed Action:
2520.10	Amendment
2520.560	Amendment
2520.573	New Section
2520.575	New Section
2520.577	New Section
2520.580	New Section
2520.583	New Section
2520.585	New Section
2520.587	New Section

4) Statutory Authority: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].

5) Effective Date of Amendment: January 1, 1996

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which they expire: These amendments will not expire before the end of the 150-day period.

7) Date Filed in Agency's Principal Office: January 1, 1996

8) Reason for Emergency: Emergency rules are necessary because the Governor signed Public Act 90-0370 on August 18, 1995. The timing of the passage of the bill was beyond the Department's control, and therefore, the necessity of the rules is beyond the Department's control. The public interest and welfare require that the Department's charges be processed as expeditiously as possible, and Public Act 90-370 provides strict time limits for the processing of charges. Public Act 90-370 is effective for charges filed on or after January 1, 1996, and therefore, without emergency rules, the Department will not have procedures for processing these charges. Irreparable prejudice and loss of due process may result to complainants and respondents who, without the rules, will not have the opportunity to appeal adverse decisions of the Department. Interested persons have been informed by letter of the intent to publish emergency rules and that proposed amendments were published in 19 Ill. Reg. 15319. The emergency rules are limited in scope to comply with the statutory changes brought about by Public Act 90-370 and are the only emergency rules filed by the Department within the past 24 months. The rules are consistent with the Act and are authorized by Section 7-101(A) of the Act.

9) A Complete Description of the Subjects and Issues Involved: The proposed

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF EMERGENCY AMENDMENT

rules provide procedures for processing charges pursuant to a recent amendment to the Human Rights Act.

10) Are there any proposed amendments to this Part Pending? Yes

Section Numbers	Proposed Action	Illinois Register Citation
2520.10	Amendment	19 Ill. Reg. 15319
2520.560	Amendment	19 Ill. Reg. 15319
2520.573	New Section	19 Ill. Reg. 15319
2520.575	New Section	19 Ill. Reg. 15319
2520.577	New Section	19 Ill. Reg. 15319
2520.580	New Section	19 Ill. Reg. 15319
2520.583	New Section	19 Ill. Reg. 15319
2520.585	New Section	19 Ill. Reg. 15319
2520.587	New Section	19 Ill. Reg. 15319

11) Statement of Statewide Policy Objectives: This emergency rulemaking does not affect units of local government.

12) Information and questions regarding these amendments shall be directed to:

David T. Rothal
Staff Attorney
Illinois Department of Human Rights
100 West Randolph Street
Suite 10-100
Chicago, IL 60601
(312) 814-6242 or TDD: (312) 263-1579

The full text of the emergency amendments begins on the next page:

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF EMERGENCY AMENDMENT

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER II: DEPARTMENT OF HUMAN RIGHTS

PART 2520
PROCEDURAL

SUBPART A: INTERPRETATIONS

Section
2520.10 Definition of Terms
EMERGENCY
2520.20 Computation of Time
2520.30 Service of Documents
2520.40 Filing with the Department
2520.50 Separability
2520.110 Preservation of Records by Employers, Labor Organizations, Employment Agencies and Respondents

SUBPART B: CHARGE

Section
2520.310 Time of Filing (Repealed)
2520.320 Form (Repealed)
2520.330 Contents
2520.340 Requirements for Charge (Repealed)
2520.350 Unperfected Charge
2520.360 Amendment
2520.370 Substitution and Addition of Parties (Repealed)
2520.380 Withdrawal of Charge

SUBPART C: PROCEDURE UPON CHARGE

Section
2520.410 Docketing and Service of Charge (Repealed)
2520.420 Maintenance of Records (Repealed)
2520.430 Investigation
2520.440 Fact-Finding Conference
2520.450 Administrative Closure (Repealed)
2520.460 Determination After Investigation (Repealed)
2520.470 Conciliation (Repealed)
2520.480 Complaint (Repealed)

SUBPART D: SETTLEMENTS

Section
2520.510 Settlement
2520.520 Non-Disclosure (Repealed)
2520.530 Dismissal for Refusal to Accept Settlement Offer (Repealed)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF EMERGENCY AMENDMENT

2520.540 Non-Compliance with Settlement Terms (Repealed)

SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

Section
2520.550 Administrative Closure
2520.560 Dismissal
EMERGENCY
2520.570 Default

SUBPART F: REQUESTS FOR REVIEW

Section
2520.573 Filing with Chief Legal Counsel
EMERGENCY
2520.575 Contents of Request for Review
EMERGENCY
2520.577 Notice by the Chief Legal Counsel
EMERGENCY
2520.580 Extension of Time
EMERGENCY
2520.583 Reply to Request for Review
EMERGENCY
2520.585 Additional Investigation
EMERGENCY
2580.587 Decision
EMERGENCY

SUBPART FG: RELATIONS WITH LOCAL HUMAN RIGHTS AGENCIES

Section
2520.610 Scope and Purpose (Repealed)
2520.620 Definitions (Repealed)
2520.630 Cooperative Agreements
2520.640 Nature of Cooperative Agreements
2520.650 Training and Technical Assistance
2520.660 Promotion of Communication and Goodwill

SUBPART HG: EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES

Section
2520.700 Definitions
2520.710 Scope and Purpose
2520.720 Affirmative Action Groups
2520.730 Consideration of Additional Groups
2520.740 Definitions (Renumbered)
2520.750 Nondiscrimination (Repealed)

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF EMERGENCY AMENDMENT

2520.760 Plans
2520.770 Reporting and Record-Keeping
2520.780 Equal Employment Opportunity Officers
2520.790 Complaint Process
2520.795 Compliance Reviews
2520.797 Sanctions for Noncompliance

APPENDIX A Contents of Affirmative Action Plans
APPENDIX B Value Weight Assignment Chart

AUTHORITY: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and Section 1 the Intergovernmental Cooperation Act [5 ILCS 220/1], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105 (A)].

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendment at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; amended at 6 Ill. Reg. 2125, effective February 8, 1982; amended at 6 Ill. Reg. 3076, effective March 15, 1982; amended at 6 Ill. Reg. 8090, effective July 1, 1982; codified at 8 Ill. Reg. 17884; amended at 17 Ill. Reg. 15556, effective September 13, 1993; amended at 18 Ill. Reg. 16829, effective November 4, 1994; emergency amendment at 20 Ill. Reg. 445, effective January 1, 1996, for a maximum of 150 days.

SUBPART A: INTERPRETATIONS

Section 2520.10 Definition of Terms
EMERGENCY

For purposes of this Part, the following terms shall have the meanings indicated:

Act -- shall mean the Illinois Human Rights Act [775 ILCS 5].

Charge -- shall mean an allegation of a civil rights violation filed with or initiated by the Department, and with regard to Subpart F, one filed with a local human rights agency.

Chief Legal Counsel -- shall mean Chief Legal Counsel of the Department or a duly authorized designee.

~~Commission------shall--mean--the--Illinois-Human-Rights-Commission-or,-where-appropriate,-a-panel-of-three-Commissioners.~~

Complainant -- shall mean a person who files a charge or a complaint, including the Department in the case of a charge initiated by the

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF EMERGENCY AMENDMENT

Department.

~~Complaint----shall-mean-a-written-complaint-for-hearing-filed-with-the-Commission.~~

Days -- shall mean calendar days, unless otherwise stated.

~~Department----shall-mean-the-Department-of-Human-Rights.~~

Director -- shall mean the Director of the Department or a duly authorized designee.

Local Agency -- shall mean any department, commission or other instrumentality of a municipality or other political subdivision of the State of Illinois, or of two or more such political subdivisions acting jointly, which is duly established to serve purposes consistent with those of the Human Rights Act.

Party -- shall mean the complainant or respondent.

Person -- shall have the same meaning as in Section 1-103 of the Act [775 ILCS 5/1-103].

Request for Review -- shall have the same meaning as in Sections 7-101.1 and 7-112 of the Act [775 ILCS 5/7-101.1 and 7-112].

Respondent -- shall mean a person against whom a charge or complaint is filed.

Unlawful Discrimination -- shall mean any form of discrimination prohibited under the Act or under a local ordinance administered by a local agency.

(Source: Emergency amendment at 20 Ill. Reg. 445, effective January 1, 1996, for a maximum of 150 days)

Section 2520.560 Dismissal
EMERGENCY

a) The Department shall serve upon the parties a written notice of dismissal of all or part of a charge. For charges filed before January 1, 1996, the ~~The~~ notice will state the grounds ~~ground~~ for dismissal and that the complainant may obtain review by the Commission by filing a request for review within 30 ~~thirty~~ days after ~~of~~ receipt of the notice. For charges filed on or after January 1, 1996, Subpart F of this Part shall apply and the notice shall state the grounds for the dismissal and that the Complainant may obtain review by the Chief Legal Counsel by filing a request for review within 30 days after

1996

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF EMERGENCY AMENDMENT

receipt of the notice.

b) The dismissal may be based upon:

1) lack of substantial evidence of discrimination or lack of jurisdiction. An investigation report discussing the reasons for the dismissal shall accompany the notice of dismissal;

2) complainant's failure to proceed, as provided in Section 2520.430(c) of this Part. The notice of dismissal in such cases shall specify the manner in which the complainant has failed to proceed and shall be addressed to the complainant at the last known address; or

3) complainant's failure to accept a settlement offer, pursuant to Section 7A-103(D) of the Act [775 ILCS 5/7A-103(D)]. The notice in such cases shall specify the reasons for the Department's dismissal.

(Source: Emergency amendment at 20 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

SUBPART F: REQUESTS FOR REVIEW

Section 2520.573 Filing with Chief Legal Counsel
EMERGENCY

For charges filed on or after January 1, 1996:

a) a Complainant may request review by the Chief Legal Counsel of a determination by the Director that:

1) there is no substantial evidence;

2) the Department lacks jurisdiction;

3) a charge should be dismissed for failure of Complainant to proceed; or

4) a charge should be dismissed for failure of a Complainant to accept a settlement offer.

b) a Respondent may file a request for review by the Chief Legal Counsel of a decision by the Director to issue a notice of default.

Any such request for review must be filed with the Chief Legal Counsel at the Department's Chicago office within 30 days after receipt of the Department's notice of its decision.

(Source: Emergency amendment at 20 Ill. Reg. 465, effective January 1, 1996, for a maximum of 150 days)

Section 2520.575 Contents of Request for Review
EMERGENCY

A request for review must state the reasons the party disagrees with the Director's decision. A request for review may also present relevant or supporting documents and/or identify witnesses with direct knowledge and state how to contact each named witness. If such names or documents were not

1996

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF EMERGENCY AMENDMENT

previously provided to the Department, in order for them to be considered, good cause must be shown for not providing such names or documents during the Department's investigation.

(Source: Emergency amendment at 20 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

Section 2520.577 Notice by the Chief Legal Counsel
EMERGENCY

a) When the Chief Legal Counsel receives a timely filed request for review, he/she shall notify the Director and all other parties of its filing.

b) The Chief Legal Counsel shall notify a party that its request for review will not be considered by the Chief Legal Counsel:

1) if an untimely request for review is filed with the Chief Legal Counsel and a timely request for an extension has not previously been filed; or

2) if a party files an untimely request for an extension.

(Source: Emergency amendment at 20 Ill. Reg. 465, effective January 1, 1996, for a maximum of 150 days)

Section 2520.580 Extension of Time
EMERGENCY

a) For good cause shown, a party may request, in writing, an extension of time to file a request for review of no more than 14 days. A request for an extension of time must be filed with the Chief Legal Counsel no later than the deadline for filing the request for review and will be granted if the Chief Legal Counsel determines that good cause has been established; such a determination shall be mailed to the party who has filed a request for an extension.

b) If a party files a timely request for an extension that is granted, but does not file a request for review on or before the extended deadline, the Chief Legal Counsel will consider the request for review to be one filed without evidence or argument.

(Source: Emergency amendment at 20 Ill. Reg. 465, effective January 1, 1996, for a maximum of 150 days)

Section 2520.583 Reply to Request for Review
EMERGENCY

When a party files a request for review, the Chief Legal Counsel may request other parties and the Department to submit a reply to the request for review. Such reply must be received within 14 days after the request by the Chief Legal Counsel.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF EMERGENCY AMENDMENT

(Source: Emergency amendment at 20 Ill. Reg. 445, effective January 1, 1996, for a maximum of 150 days)

Section 2520.585 Additional Investigation
EMERGENCY

If the Director or staff attorney conducts an additional investigation pursuant to Section 7-101.1(B) of the Act that affects the findings of the Chief Legal Counsel, the Chief Legal Counsel shall include the pertinent findings of such investigation in the order entered pursuant to Section 2520.587 of this Part.

(Source: Emergency amendment at 20 Ill. Reg. 445, effective January 1, 1996, for a maximum of 150 days)

Section 2520.587 Decision
EMERGENCY

If the Chief Legal Counsel determines that the Director's decision should be sustained, he/she shall enter an order stating the findings and reasons therefor. Otherwise, the Chief Legal Counsel shall order that the dismissal or default be vacated and that the charge be returned to the Charge Processing Division of the Department for additional work or that a substantial evidence finding be entered. The Chief Legal Counsel shall immediately cause the order to be served on the Director and all parties to the charge. In the case of a default that is sustained, a copy of the order shall be served on the Human Rights Commission, so that it may conduct further proceedings pursuant to Section 7-101.1(C) of the Act.

(Source: Emergency amendment at 20 Ill. Reg. 445, effective January 1, 1996, for a maximum of 150 days)

SUBPART G F: RELATIONS WITH LOCAL HUMAN RIGHTS AGENCIES

Section 2520.610 Scope and Purpose (Repealed)

(Source: Repealed at 18 Ill. Reg. 16829, effective November 4, 1994)

SUBPART H G: EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES

Section 2520.700 Definitions

For purposes of this Subpart, the following terms shall have the meanings indicated:

Act--The term "Act" shall mean the Illinois Human Rights Act.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF EMERGENCY AMENDMENT

Affirmative Action Group--The term "affirmative action group" shall mean any of the groups listed in Sections 2520.720 or 2520.730 of this Part.

Agency--The term "agency" shall mean any instrumentality or facility of the executive branch of State government, as specified in Section 2520.710 of this Part.

Central Management Services--The term "Central Management Services" shall mean the Department of Central Management Services or any successor agency responsible for its functions.

Chief Executive Officer--The term "Chief Executive Officer" shall mean the director or other chief executive or administrator of any agency other than the Department.

Department--The term "Department" means the Department of Human Rights.

Director--The term "Director" means the Director of the Department.

Disability--As used in Section 2-105(b) of the Act, "disability" means a mental or physical condition (other than pregnancy), lasting six months or longer, that limits the amount or kind of work an individual can perform.

EEO--The term "EEO" means Equal Employment Opportunity.

EEO/AA--The term "EEO/AA" means Equal Employment Opportunity/Affirmative Action.

EEO Job Categories--The term "EEO job categories" refers to the following eight categories: officials/managers; professionals; paraprofessionals; technicians; office/clerical workers; protective services workers; skilled craft workers; and service/maintenance workers.

EEO Officer--The term "EEO Officer" means the Equal Employment Opportunity Officer, whether full or part-time, appointed by a State agency pursuant to Section 2-105(B)(4) of the Act and Section 5220.780 of this Part.

Minority--The term "minority" or "minorities" refers to those groups, or members thereof, listed in Section 2520.720 or 2520.730 of this Part, other than women and disabled persons.

Numerical Goals--The term "numerical goals" means the number of members of an affirmative action group which have been determined to

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF EMERGENCY AMENDMENT

be available to an agency for employment in each of the EEO job categories.

Petitioning Group--The term "petitioning group" means a chartered not-for-profit organization that is recognized by the community it purports to represent which has as its purpose fostering the interests and well being of that community.

Plan--The term "plan" shall mean an affirmative action plan for employment as described in Section 2520.760.

Program Goals--The term "program goals" means a set of actions established to address affirmative action or EEO problems cited in the agency's plan.

Reasonable Accommodation--The term "reasonable accommodation" as it relates to disabled employees and applicants means modification of the work site, work process and/or work schedule to enable a disabled person to perform the major functions of a specific job; however, such an accommodation cannot impose an undue hardship on the conduct of the business of the employer or labor organization.

Underutilized Category--The term "underutilized category" means one in which the number of employed members of an affirmative action group for which numerical goals have been set does not reflect the availability of that group in the agency workforce in that EEO job category.

(Source: Section 2520.700 renumbered from 2520.740 and amended at 17 Ill. Reg. 15556, effective September 13, 1993)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Community Living Facilities Code

2) Code Citation: 77 Ill. Adm. Code 370

3) Section Numbers: Adopted Action:

370.715 New Section

4) Statutory Authority: Community Living Facilities Act [210 ILCS 35]

5) Effective Date of Emergency Amendments: January 1, 1996

6) If this emergency rules is to expire before the end of the 150 day period, please specify the date on which it is to expire: This emergency will not expire before the end of the 150 day period.

7) Date Filed in Agency's Principal Office: January 1, 1996

8) Reason for Emergency: The Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995) established requirements for Uniform Conviction Information Act (UCIA) criminal history record checks for certain health care workers. The Act applies to all individuals employed or retained by a health care employer as home health care aides, nurse aides, personal care assistants, private duty nurse aides, student nurses, day training personnel or any similar health- related occupations. Health care employers include community living facilities, life care facilities, long-term care facilities, home health agencies, full hospices, hospitals, community residential alternatives, nurse agencies, respite care providers, certified day training programs, and community integrated living arrangements. Individuals who are licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State or who are employed or retained by a health care employer for whom a criminal background check is required by another law of this State are exempt from the Act.

Beginning January 1, 1996, the Department of Public Health or its designee that tests nurse aides must request a UCIA criminal history records check for each nurse aide applying for inclusion on the State nurse aide registry. Also beginning January 1, 1996, a health care employer who makes a conditional offer of employment to an applicant other than a nurse aide for a position with duties that involve direct care for clients, patients, or residents must initiate a UCIA criminal history record check for that applicant. Criminal history record checks for all other nonlicensed direct care employees must be initiated no later than January 1, 1997. After January 1, 1996, or January 1, 1997, as applicable, health care employers are prohibited from hiring, employing, or retaining any individual in a direct care position who has been convicted of committing or attempting to commit one or more of the offenses listed in the Act.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

The Act includes a provision whereby a waiver of the employment prohibition may be requested by submitting certain information to the entity responsible for inspecting, licensing, certifying or registering the health care employer within 30 days after receipt of the criminal records report.

Health care employers are required to retain on file for a period of five years records of criminal records requests for all employees covered under the Act, other than nurse aides. The Department of Public Health is required to include in its nurse aide registry the date of a nurse aide's last criminal records check and information concerning disqualification pursuant to the Act.

Enactment of P.A. 89-197 has an impact on many of the Department's regulatory programs, requiring amendments to ten Parts (77 Ill. Adm. Code 300, 330, 340, 350, 370, 390, 245, 250, 280, and 395). To enforce the law uniformly, the Department determined that all of the rule changes should be adopted at once; however, the rule changes are required by law to be reviewed by each program's respective licensing or advisory board, which meets quarterly. The rule changes were presented to the State Board of Health on September 14, 1995 (Parts 280 and 370); to the Home Health Advisory Council on October 25, 1995 (Part 245); to the Hospital Licensing Board on November 15, 1995, (Part 250); and to the Long-Term Care Facility Advisory Board on November 15, 1995 (Parts 300, 330, 340, 350, 390, and 395). Background checks under P.A. 89-197 are required to begin on January 1, 1996. Implementation of the Act will help to protect the health, safety and welfare of recipients of health care services through a variety of providers throughout the State. Thousands of health care workers are affected by this legislation, which will prohibit persons who have been convicted of serious crimes from employment in positions involving direct care of patients or residents. The Department is mandated to begin implementing the Act on January 1, 1996. Therefore, the Department believes that emergency rulemaking is necessary to meet the time frames imposed by the Act.

9) A Complete Description of the Subjects and Issues Involved: The rules in Part 370 establish requirements for the licensure of community living facilities. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 370.715 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment,"

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

"direct care," and "personal care" as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care for residents. Facilities are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (l). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Facilities are not obligated to employ applicants who are granted waivers (subsection (k)). Requirements for retention of records are set forth in subsection (m).

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objectives: This rulemaking will not establish or expand state mandates.

12) Information and Questions regarding these amendments shall be directed to:

Ms. Gail Devito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson Street, Fifth Floor
Springfield, IL 62761
(217)782-6187

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 370
COMMUNITY LIVING FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section
370.110 General Requirements
370.120 Application for License
370.130 Licensee
370.140 Issuance of an Initial License for a New Facility
370.150 Issuance of an Initial License Due to a Change of Ownership
370.160 Issuance of a Renewal License
370.170 Denial or Revocation
370.180 Experimental Program Conflicting With Requirements
370.190 Inspections
370.200 Information to Be Made Available to the Public By the Licensee
370.210 Ownership Disclosure
370.220 Variances
370.230 Alcoholism Treatment Programs In Community Living Facilities
370.240 Definitions

SUBPART B: ADMINISTRATION

Section
370.400 Administration

SUBPART C: POLICIES

Section
370.510 Social and Vocational Training Program Policies
370.520 Admission and Discharge Policies
370.530 Agreement Between Resident and Facility
370.540 General Policies
370.550 Personnel Policies

SUBPART D: PERSONNEL

Section
370.710 Personnel
370.715 Health Care Worker Background Check
EMERGENCY
370.720 Personnel Policies

SUBPART E: HEALTH MAINTENANCE SERVICES

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Section
370.810 Medical Care Policies
370.820 Communicable Disease Policies
370.830 Behavior Emergencies
370.840 Medication Policies

SUBPART F: PROGRAM SERVICES

Section
370.1010 Program Evaluation
370.1020 Program and Services

SUBPART G: RECORDS

Section
370.1210 General
370.1220 Other Records
370.1230 Confidentiality

SUBPART H: FOOD SERVICE

Section
370.1410 Food Service
370.1420 Adequacy of Diet
370.1430 Therapeutic Diets
370.1440 Scheduling of Meals
370.1450 Food Preparation and Service
370.1460 Food Handling Sanitation
370.1470 Kitchen Equipment, Utensils and Supplies

SUBPART I: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section
370.1610 Maintenance
370.1620 Housekeeping
370.1630 Laundry Services

SUBPART J: FURNISHINGS, EQUIPMENT AND SUPPLIES

Section
370.1810 Furnishings
370.1820 Equipment and Supplies

SUBPART K: WATER SUPPLY AND SEWAGE DISPOSAL

Section
370.2010 Codes
370.2020 Water Supply

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

370.2030 Sewage Disposal
370.2040 Plumbing

SUBPART L: DESIGN AND CONSTRUCTION STANDARDS FOR NEW COMMUNITY LIVING FACILITIES

Section
370.2210 Applicability of Standards
370.2220 Codes and Standards
370.2230 Preparation of Drawings and Specifications
370.2240 Site
370.2250 Administration
370.2260 Bedrooms
370.2270 Nurses' Station
370.2280 Bath and Toilet Rooms
370.2290 Living, Dining Room, and Activity Room(s)
370.2300 Kitchen
370.2310 Laundry Room
370.2320 Housekeeping and Storage
370.2330 Building General
370.2340 Exit Facilities and Subdivision of Floor Areas
370.2350 Stairways and Vertical Openings
370.2360 Hazardous Areas
370.2370 Structural
370.2380 Mechanical Systems
370.2390 Plumbing Systems
370.2400 Electrical Systems
370.2410 Fire Alarm and Detection System
370.2420 Emergency Electrical System
370.2430 Fire Protection

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING COMMUNITY LIVING FACILITIES

Section
370.2610 Applicability of Standards
370.2620 Codes and Standards
370.2630 Preparation of Drawings and Specifications
370.2640 Site
370.2650 Administration and Public Areas
370.2660 Bedrooms
370.2670 Nurses' Station
370.2680 Bath and Toilet Rooms
370.2690 Living, Dining Room, and Activity Room(s)
370.2700 Kitchen
370.2710 Laundry Room
370.2720 Housekeeping and Storage
370.2730 Building General

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

370.2740 Exit Facilities and Subdivision of Floor Areas
370.2750 Stairways and Vertical Openings
370.2760 Hazardous Areas
370.2770 Structural
370.2780 Mechanical Systems
370.2790 Plumbing Systems
370.2800 Electrical Systems
370.2810 Fire Alarm and Detection System
370.2820 Emergency Electrical System
370.2830 Fire Protection

SUBPART N: RESIDENT'S RIGHTS

Section
370.3010 General
370.3020 Medical and Personal Care Program
370.3030 Restraints
370.3040 Abuse and Neglect
370.3050 Communication and Visitation
370.3060 Resident's Funds
370.3070 Private Right of Action
370.3080 Transfer and/or Discharge
370.3090 Complaint Procedures
370.3100 Confidentiality
370.3110 Facility Implementation

APPENDIX A Program Standards
APPENDIX B Sanitizing Solutions

AUTHORITY: Implementing and authorized by the Community Living Facilities Act [210 ILCS 35].

SOURCE: Emergency rules adopted at 6 Ill. Reg. 379, effective January 1, 1982, for a maximum of 150 days; adopted at 6 Ill. Reg. 6226, effective May 19, 1982; codified at 8 Ill. Reg. 19476; amended at 8 Ill. Reg. 24706, effective December 7, 1984; emergency amendment at 17 Ill. Reg. 9117, effective June 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19509, effective November 1, 1993; emergency amendments at 20 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 425, effective JAN 0 1 1996.

SUBPART D: PERSONNEL

Section 370.715 Health Care Worker Background Check
EMERGENCY

a) The facility shall not *knowingly hire any individual* after January 1, 1996 *in a position with duties involving direct care for residents* if

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

that person *has been convicted of committing or attempting to commit one or more of* the following *offenses* (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5]);
2) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961);
3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961);
4) Assault, battery or infliction of greatly bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12 -4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961);
5) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-15, and 12-16 of the Criminal Code of 1961);
6) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961);
7) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961);
8) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1, and 19-3 of the Criminal Code of 1961);
9) Criminal trespass (Section 19-4 of the Criminal Code of 1961);
10) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961);
11) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961);
12) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1 and 9]); or
13) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1]).

b) The facility shall not *knowingly employ or retain any individual* after January 1, 1997 *in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the offenses* listed in subsections (a)(1)-(13) of this Section *unless the applicant, employee* or employer *obtains a waiver pursuant to* subsections (i) and (j) of this Section. (Section 25 of the Health Care Worker Background Check Act).

c) For the purpose of this Section:
   1) *"applicant"* means *an individual seeking employment with* A facility *who has received a bona fide conditional offer of employment.*
   2) *"Conditional offer of employment* means *a bona fide offer of employment by a* facility *to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses* listed in subsections (a)(1)-(13) of this Section.
   3) *"Direct Care"* means the provision of nursing of personal care. (Section 15 of the Health Care Worker Background Check Act)
   4) *"Personal care"* means *assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of* a resident. (Section 15 of the Health Care Worker Background Check Act)

d) *Beginning January 1, 1996* when the facility *makes* a *conditional offer of employment to an applicant* who is not exempt under subsection (1) of this Section, *for a position with duties that involve direct care for residents,* the employer *must initiate a* Uniform Conviction Information Act (UCIA) *Criminal History Record Check for that applicant.* (Section 30 of the Health Care Worker Background Check Act)

e) *No later than January 1, 1997 a* facility *must initiate a UCIA Criminal History Record Check for all employees* who were hired before January 1, 1996 and who are not exempt because of subsection (1) of this Section *with duties that involve direct care for residents.* (Section 30 of the Health Care Worker Background Check Act)

f) *The request for a UCIA Criminal History Record Check shall be* made *as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-finger print UCIA* Criminal History Record *search is made:*
   1) *That that* facility *shall request a UCIA Criminal History Record Check pursuant to* the Health Care Worker Background Check *Act.*
   2) *That the applicant or employee has a right to obtain a copy of the Criminal Records Report, challenge the accuracy and completeness of the report, and request a waiver* in accordance with subsection (i) of this Section.
   3) *That the applicant, if hired conditionally, may be terminated if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee *does not have a disqualifying Criminal History Record based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section.
   4) *That the applicant, if not hired conditionally, shall not be hired if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless theapplicant's record is cleared based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

5) *That the employee may be terminated if the Criminal Records Report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's record is cleared based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section. (Section 30 of the Health Care Worker Background Check Act)

g) A facility *may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA Criminal History Record Check.* (Section 30 of the Health Care Worker Background Check Act)

h) *An applicant or employee whose UCIA Criminal History Record Check indicates a conviction for committing or attempting to commit one or more of the offenses* listed in subsections (a)(1)-(13) of this Section *may request the* facility *or the Department to Commence a fingerprint-based UCIA Criminal Records Check by submitting information in a form and manner prescribed by the Department of State Police*. (Section 35 of the Health Care Worker Background Check Act)

i) *An applicant, employee* or employer *may request a waiver* to subsection (a) or (b) of this Section by submitting the following to the Department *within 30 days after the receipt of the criminal records report:*

1) *Information necessary to initiate a fingerprint-based UCIA Criminal Records Check in a form and manner prescribed by the Department of State Police* (Section 40 of the Health Care Worker Background Check Act); and

2) A certified check or money order made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA Criminal Records Check.

j) The Department *may grant a waiver based on mitigating circumstances, which may include:*

1) *The age at which the crime was committed;*
2) *The circumstances surrounding the crime;*
3) *The length of time since the conviction;*
4) *The applicant's or employee's criminal history since the conviction;*
5) *The applicant's or employee's work history;*
6) *The applicant's or employees current employment references;*
7) *The applicant's or employee's character references; and*
8) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents.* (Section 40 of the Health Care Worker Background Check Act)

k) A facility *is not obligated to employ or offer permanent employment to an applicant, or retain an employee who is granted a wavier.* (Section 40(d) of the Health Care Worker Background Check Act)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

l) This Section *shall not apply to:*

1) *An individual who is licensed by the Department of professional regulation or the Department of Public Health under another law; or*

2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State.* (Section 20 of the Health Care Worker Background Check Act)

m) *The* facility *shall retain on file for a period of 5 years records of criminal records requests for all employees, other than nurse aides. The file shall be subject to inspection by the* Department. *A fine of $500* shall be imposed for failure to maintain these records.(Section 50 of the Health Care Worker Background Check Act)

(Source: Emergency amendment at 20 Ill. Reg. 452, effective January 1, 1996 for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Hospice Programs

2) Code Citation: 77 Ill. Adm. Code 280

3) Section Numbers: Adopted Action:

280.101 Amendments

4) Statutory Authority: Hospice Program Licensing Act [210 ILCS 60]

5) Effective Date of Emergency Amendments: January 1, 1996

6) If this emergency rules is to expire before the end of the 150 day period, please specify the date on which it is to expire: This emergency will not expire before the end of the 150 day period.

7) Date Filed in Agency's Principal Office: January 1, 1996

8) Reason for Emergency: The Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995) established requirements for the Uniform Conviction Information Act (UCIA) criminal history record checks for certain health care workers. The Act applies to all individuals employed or retained by a health care employer as home health care aides, nurse aides, personal care assistants, private duty nurse aides, student nurses, day training personnel or any similar health-related occupation. Health care employers include community living facilities, life care facilities, long-term care facilities, home health agencies, full hospices, hospitals, community residential alternatives, nurse agencies, respite care providers, certified day training programs, and community integrated living arrangements. Individuals who are licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State or who are employed or retained by a health care employer for whom a criminal background check is required by another law of this State are exempt from the Act.

Beginning January 1, 1996, the Department of Public Health or its designee that tests nurse aides must request a UCIA criminal history records check for each nurse aide applying for inclusion on the State nurse aide registry. Also beginning January 1, 1996, a health care employer who makes a conditional offer of employment to an applicant other than a nurse aide for a position with duties that involve direct care for clients, patients, or residents must initiate a UCIA criminal history record check for that applicant. Criminal history record checks for all other nonlicensed direct care employees must be initiated no later than January 1, 1997. After January 1, 1996, or January 1, 1997, as applicable, health care employers are prohibited from hiring, employing, or retaining any individual in a direct care position who has been convicted of committing or attempting to commit one or more of the offenses listed in the Act.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

The Act includes a provision whereby a waiver of the employment prohibition may be requested by submitting certain information to the entity responsible for inspecting, licensing, certifying or registering the health care employer within 30 days after receipt of the criminal records report.

Health care employers are required to retain on file for a period of five years records of criminal records requests for all employees, other than nurse aides. The Department of Public Health is required to include in its nurse aide registry the date of a nurse aide's last criminal records check and information concerning disqualification pursuant to the Act.

Enactment of P.A. 89-197 has an impact on many of the Department's regulatory programs, requiring amendments to ten Parts (77 Ill. Adm. Code 300, 330, 340, 350, 370, 390, 245, 250, 280, and 395). To enforce the law uniformly, the Department determined that all of the rule changes should be adopted at once; however, the rule changes are required by law to be reviewed by each program's respective licensing or advisory board. The rule changes were presented to the State Board of Health on September 14, 1995 (Parts 280 and 370); to the Home Health Advisory Council on October 25, 1995 (Part 245); to the Hospital Licensing Board on November 15, 1995, (Part 250); and to the Long-Term Care Facility Advisory Board on November 15, 1995 (Parts 300, 330, 340, 350, 390, and 395). Background checks under P.A. 89-197 are required to begin on January 1, 1996. Implementation of the Act will help to protect the health, safety and welfare of recipients of health care services through a variety of providers throughout the State. Thousands of health care workers are affected by this legislation, which will prohibit persons who have been convicted of serious crimes from employment in positions involving direct care of patients or residents. The Department is mandated to begin implementing the Act on January 1, 1996. Therefore, the Department believes that emergency rulemaking is necessary to meet the time frames imposed by the Act.

9) A Complete Description of the Subjects and Issues Involved: Section 280.101 is being amended to include reference to requirements for home health aides and nursing assistants under 77 Ill. Adm. Code 245.72 and 77 Ill. Adm. Code 300.662. The home health aide and nursing assistant requirements implement the Health Care Worker Background Check Act and were adopted by emergency rulemaking effective January 1, 1996. Provisions are included for Uniform Conviction Information Act (UCIA) criminal records checks for direct care employees who are not licensed under any other law; employment prohibition for individuals who have been convicted of certain crimes; waiver provisions; record-keeping requirements.

10) Are there any proposed amendments to this Part pending? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

12) Information and Questions regarding these amendments shall be directed to:

Ms. Gail Devito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson Street, Fifth Floor
Springfield, IL 62761
(217) 782-6187

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITAL AND AMBULATORY CARE FACILITIES

PART 280
HOSPICE PROGRAMS

SUBPART A: DEFINITIONS

Section
280.101 Definitions of Terms
EMERGENCY

SUBPART B: LICENSURE

Section
280.201 Programs Subject to Licensure
280.202 Licensure Procedures
280.203 License Not Transferable
280.204 License Fees
280.205 Inspections or Investigations
280.206 Information to be Reported to the Department
280.207 Research or Experimental Programs

SUBPART C: ADMINISTRATION

Section
280.301 Facilities Owned by Corporations
280.302 Sole Proprietor/Partnerships
280.303 Administrator

SUBPART D: POLICIES AND PROCEDURES

Section
280.401 General
280.402 Personnel Policies
280.403 Hospice Programs
280.404 Volunteer Services
280.405 Hospice Service Plan
280.406 Patient Rights
280.407 Clinical Records

SUBPART E: PHYSICIAN SERVICES/MEDICAL DIRECTION

Section
280.501 Physician Services
280.502 Medical Director
280.503 Medical Advisor

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

SUBPART F: HOSPICE PROGRAM CARE STANDARDS

Section
280.601 General
280.602 Admissions and Discharges
280.603 The Hospice Care Team
280.604 The Patient Care Plan
280.605 Hospice Services

SUBPART G: QUALITY ASSURANCE

Section
280.701 Quality Assurance Plan/Utilization Review

SUBPART H: INPATIENT SERVICES

Section
280.801 Inpatient Care Facilities
280.802 Inpatient Care Contracts

SUBPART I: HEARINGS

Section
280.901 Hearings

AUTHORITY: Implementing and authorized by the Hospice Program Licensing Act [210 ILCS 60].

SOURCE: Emergency rules adopted at 9 Ill. Reg. 7206, effective May 6, 1985, for a maximum of 150 days; adopted at 9 Ill. Reg. 15521, effective October 3, 1985; emergency amendment at 20 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. _____, effective JAN 01 1996.

SUBPART A: DEFINITIONS

Section 280.101 Definitions of Terms
EMERGENCY

a) The following terms used in this Part shall have the meanings ascribed to them in Section 3 of the Hospice Program Licensing Act [210 ILCS 60/3] ~~(Ill. Rev. Stat. 1983, ch. 111 1/2, par. 6103)~~:

Bereavement
Department
Director
Full Hospice
Hospice Care Team (also known as "Hospice Interdisciplinary Team")

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Hospice Patient
Hospice Patient's Family
Hospice Services
Palliative Care
Terminally Ill
Volunteer Hospice

b) As used in this Part, the terms defined herein have the meanings ascribed to them in this Section:

"Act" means the Hospice Program Licensing Act [210 ILCS 60]. ~~(Ill. Rev. Stat. 1983, ch. 111 1/2, pars. 6101 et seq.)~~

"Counselor" means:

~~(1)~~ a person who has earned at a minimum a bachelor's degree in counseling, psychology, or social work from an accredited college or university and who has one year of counseling experience in a health care setting; or

~~(2)~~ a religious professional (clergy, religious or theologically trained lay person) who has a combination of documented formal training in pastoral counseling and supervised counseling experience in a health care or clinical setting. The total of academic and supervised work experience must equal at least five (5) years. Any person employed as a "Counselor" in an Illinois Licensed Hospice Program prior to September 1, 1985 may continue to serve in that capacity at that agency only, even though he or she may not meet the qualifications for "Counselor" on the date these rules are effective.

"Hospice Aide" means a person who provides assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence, or who is incapable of managing his person whether or not a guardian has been appointed for such individual. Hospice aides must meet the requirements for Home Health Aides in 77 Ill. Adm. Code 245.70 and 245.72 or Nursing Assistants in 77 Ill. Adm. Code 300.660 or 300.662.

"Hospice Service Plan" means a plan detailing the specific hospice services offered by a full or volunteer hospice, and the administrative and direct care personnel responsible for those services. The plan shall include but not be limited to those items specified in Section 280.405 of this Part.

"Nurse" means a registered nurse or a licensed practical nurse as defined in "the ~~The~~ Illinois Nursing Act of 1987 [225 ILCS 65] ",

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

~~Ill.-Rev.-Stat.-1984-Supp.,-ch.-111,-par.-3405.~~

"Patient's representative" means a person other than the owner, or an agent or employee of a hospice program or inpatient facility not related to the patient, designated in writing by a patient to be his/her representative or the patient's guardian, or the parent of a minor patient for whom no guardian has been appointed.

"Physician" means any person licensed by the State of Illinois to practice medicine in all its branches as provided in the ~~"Illinois~~ Medical Practice Act of 1987 [225 ILCS 60] ~~"(Ill.--Rev. Stat.-1983,-ch.-111,-par.-4401-et-seq.)~~.

"Research or Experimental Programs" means use of patients receiving services in the systematic study, observation, or evaluation of factors related to the prevention, assessment, treatment, and understanding of an illness. This involves all behavioral and medical experimental research that involves human beings as experimental subjects.

"Significant others" means family, friends and associates who provide physical, emotional, spiritual or financial support to the patient.

"Social Worker" means a person who has a baccalaureate or master's degree from a school of social work which was accredited by the Council on Social Work Education at the time of his/her graduation; is currently registered or certified as a Social Worker in the State of Illinois; and has one year of social work experience in a health care setting.

"Staff" means paid employees of a hospice, individuals working under contractual agreements, and volunteers.

"Volunteer" means a person who offers his or her services to a Hospice without compensation. Reimbursement for a volunteer's expenses in providing Hospice service shall not be considered compensation. To be considered a "volunteer", an individual must have completed an orientation and training program covering, at a minimum, the subject matter outlined in Section 280.303(f) of this Part.

(Source: Emergency amendment at 20 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Hospital Licensing Requirements

2) Code Citation: 77 Ill. Adm. Code 250

3) Section Numbers: Adopted Action:

250.435 New Section

4) Statutory Authority: Hospital Licensing Act [210 ILCS 85]

5) Effective Date of Emergency Amendments: January 1, 1996

6) If this emergency rules is to expire before the end of the 150 day period, please specify the date on which it is to expire: This emergency will not expire before the end of the 150 day period.

7) Date Filed in Agency's Principal Office: January 1, 1996

8) Reason for Emergency: The Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995) established requirements for the Uniform Conviction Information Act (UCIA) criminal history record checks for certain health care workers. The Act applies to all individuals employed or retained by a health care employer as home health care aides, nurse aides, personal care assistants, private duty nurse aides, student nurses, day training personnel or any similar health-related occupation. Health care employers include community living facilities, life care facilities, long-term care facilities, home health agencies, full hospices, hospitals, community residential alternatives, nurse agencies, respite care providers, certified day training programs, and community integrated living arrangements. Individuals who are licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State or who are employed or retained by a health care employer for whom a criminal background check is required by another law of this State are exempt from the Act.

Beginning January 1, 1996, the Department of Public Health or its designee that tests nurse aides must request a UCIA criminal history records check for each nurse aide applying for inclusion on the State nurse aide registry. Also beginning January 1, 1996, a health care employer who makes a conditional offer of employment to an applicant other than a nurse aide for a position with duties that involve direct care for clients, patients, or residents must initiate a UCIA criminal history record check for that applicant. Criminal history record checks for all other nonlicensed direct care employees must be initiated no later than January 1, 1997. After January 1, 1996, or January 1, 1997, as applicable, health care employers are prohibited from hiring, employing, or retaining any individual in a direct care position who has been convicted of committing or attempting to commit one or more of the offenses listed in the Act.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

The Act includes a provision whereby a waiver of the employment prohibition may be requested by submitting certain information to the entity responsible for inspecting, licensing, certifying or registering the health care employer within 30 days after receipt of the criminal records report.

Health care employers are required to retain on file for a period of five years records of criminal records requests for all employees covered under the Act, other than nurse aides. The Department of Public Health is required to include in its nurse aide registry the date of a nurse aide's last criminal records check and information concerning disqualification pursuant to the Act.

Enactment of P.A. 89-197 has an impact on many of the Department's regulatory programs, requiring amendments to ten Parts (77 Ill. Adm. Code 300, 330, 340, 350, 370, 390, 245, 250, 280, and 395). To enforce the law uniformly, the Department determined that all of the rule changes should be adopted at once; however, the rule changes are required by law to be reviewed by each program's respective licensing or advisory board, which meets quarterly. The rule changes were presented to the State Board of Health on September 14, 1995 (Parts 280 and 370); to the Home Health Advisory Council on October 25, 1995 (Part 245); to the Hospital Licensing Board on November 15, 1995 (Part 250); and to the Long-Term Care Facility Advisory Board on November 15, 1995 (Parts 300, 330, 340, 350, 390, and 395). Background checks under P.A. 89-197 are required to begin on January 1, 1996. Implementation of the Act will help to protect the health, safety and welfare of recipients of health care services through a variety of providers throughout the State. Thousands of health care workers are affected by this legislation, which will prohibit persons who have been convicted of serious crimes from employment in positions involving direct care of patients or residents. The Department is mandated to begin implementing the Act on January 1, 1996. Therefore, the Department believes that emergency rulemaking is necessary to meet the time frames imposed by the Act.

9) A Complete Description of the Subjects and Issues Involved: The rules in Part 250 establish requirements for the licensure of hospitals in Illinois. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 250.435 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), hospitals are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment,"

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

"direct care," and "personal care" as they apply to this Section, are included in subsection (c). Subsection (d) requires hospitals to initiate Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the hospital makes a conditional offer of employment to an applicant for a position with duties that involve direct care for patients. Hospitals are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (l). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Hospitals are not obligated to employ applicants who are granted waivers (subsection (k)). Requirements for retention of records are set forth in subsection (m).

10) Are there any proposed amendments to this Part pending? Yes

Section Numbers	Proposed Action	Illinois Register Citation
250.1090	Amendments	19 Ill. Reg. 10407
250.1100	Amendments	19 Ill. Reg. 10407
250.1820	Amendments	19 Ill. Reg. 10407
250.1830	Amendments	19 Ill. Reg. 10407

11) Statement of Statewide Policy Objectives: This rulemaking will affect city and county hospitals.

12) Information and Questions regarding these amendments shall be directed to:

Ms. Gail DeVito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson Street, Fifth Floor
Springfield, IL 62761
(217) 782-6187

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 250
HOSPITAL LICENSING REQUIREMENTS

SUBPART A: GENERAL

Section
250.110 Application for and Issuance of Permit to Establish a Hospital
250.120 Application for and Issuance of a License to Operate a Hospital
250.130 Administration by the Department
250.140 Hearings
250.150 Definitions
250.160 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION AND PLANNING

Section
250.210 The Governing Board
250.220 Accounting
250.230 Planning
250.240 Admission and Discharge
250.250 Visiting Rules
250.260 Patients' Rights
250.265 Language Assistance Services
250.270 Manuals of Procedure

SUBPART C: THE MEDICAL STAFF

Section
250.310 Organization
250.315 House Staff Members
250.320 Admission and Supervision of Patients
250.330 Orders for Medications and Treatments
250.340 Availability for Emergencies

SUBPART D: PERSONNEL SERVICE

Section
250.410 Organization
250.420 Personnel Records
250.430 Duty Assignments
250.435 Health Care Worker Background Check
EMERGENCY
250.440 Education Programs
250.450 Personnel Health Requirements

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

250.460 Benefits

SUBPART E: LABORATORY

Section
250.510 Laboratory Services
250.520 Blood and Blood Components
250.525 Designated Blood Donor Program
250.530 Proficiency Survey Program (Repealed)
250.540 Laboratory Personnel (Repealed)
250.550 Western Blot Assay Testing Procedures (Repealed)

SUBPART F: RADIOLOGICAL SERVICES

Section
250.610 General Diagnostic Procedures and Treatments
250.620 Radioactive Isotopes
250.630 General Policies and Procedures Manual

SUBPART G: GENERAL HOSPITAL EMERGENCY SERVICE

Section
250.710 Classification of Emergency Services
250.720 General Requirements
250.725 Notification of Emergency Personnel
250.730 Community or Areawide Planning
250.740 Disaster and Mass Casualty Program
250.750 Emergency Services for Sexual Assault Victims

SUBPART H: RESTORATIVE AND REHABILITATION SERVICES

Section
250.810 Applicability of Other Parts of These Requirements
250.820 General
250.830 Classifications of Restorative and Rehabilitation Services
250.840 General Requirements for all Classifications
250.850 Specific Requirements for Comprehensive Physical Rehabilitation Services
250.860 Medical Direction
250.870 Nursing Care
250.880 Additional Allied Health Services

SUBPART I: NURSING SERVICE AND ADMINISTRATION

Section
250.910 Nursing Services
250.920 Organizational Plan
250.930 Role in hospital planning

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

250.940 Job descriptions
250.950 Nursing committees
250.960 Specialized nursing services
250.970 Nursing Care Plans
250.980 Nursing Records and Reports
250.990 Unusual Incidents
250.1000 Meetings
250.1010 Education Programs
250.1020 Licensure
250.1030 Policies and Procedures
250.1040 Patient Care Units
250.1050 Equipment for Bedside Care
250.1060 Drug Services on Patient Unit
250.1070 Care of Patients
250.1080 Admission Procedures Affecting Care
250.1090 Sterilization and Processing of Supplies
250.1100 Infection Control

SUBPART J: SURGICAL AND RECOVERY ROOM SERVICES

Section
250.1210 Surgery
250.1220 Surgery Staff
250.1230 Policies & Procedures
250.1240 Surgical Privileges
250.1250 Surgical Emergency Care
250.1260 Operating Room Register
250.1270 Surgical Patients
250.1280 Equipment
250.1290 Safety
250.1300 Operating Room
250.1305 Visitors in Operating Room
250.1310 Cleaning of Operating Room
250.1320 Regulations for Postoperative Recovery Facilities

SUBPART K: ANESTHESIA SERVICES

Section
250.1410 Anesthesia Service

SUBPART L: RECORDS AND REPORTS

Section
250.1510 Medical Records
250.1520 Reports

SUBPART M: FOOD SERVICE

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Section
250.1610 Dietary Department Administration
250.1620 Facilities
250.1630 Menus and Nutritional Adequacy
250.1640 Diet Orders
250.1650 Frequency of Meals
250.1660 Therapeutic (Modified) Diets
250.1670 Food Preparation and Service
250.1680 Sanitation

SUBPART N: HOUSEKEEPING AND LAUNDRY SERVICES

Section
250.1710 Housekeeping
250.1720 Garbage, Refuse and Solid Waste Handling and Disposal
250.1730 Insect and Rodent Control
250.1740 Laundry Service
250.1750 Soiled Linen
250.1760 Clean Linen

SUBPART O: MATERNITY AND NEONATAL SERVICE

Section
250.1810 Applicability of other Parts of these regulations
250.1820 Maternity and Neonatal Service Regulations (Perinatal Service)
250.1830 General Requirements for all Maternity Departments
250.1840 Discharge of Newborn Infants from Hospital
250.1850 Rooming-In Care of Mother and Infant
250.1860 Special Programs
250.1870 Single Room Maternity Care

SUBPART P: ENGINEERING AND MAINTENANCE OF THE PHYSICAL PLANT, SITE, EQUIPMENT, AND SYSTEMS--HEATING, COOLING, ELECTRICAL, VENTILATION, PLUMBING, WATER, SEWER, AND SOLID WASTE DISPOSAL

Section
250.1910 Maintenance
250.1920 Emergency electric service
250.1930 Water Supply
250.1940 Ventilation, Heating, Air Conditioning, and Air Changing Systems
250.1950 Grounds and Buildings Shall be Maintained
250.1960 Sewage, Garbage, Solid Waste Handling and Disposal
250.1970 Plumbing
250.1980 Fire and Safety

SUBPART Q: CHRONIC DISEASE HOSPITALS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Section
250.2010 Definition
250.2020 Requirements

SUBPART R: PHARMACY OR DRUG AND MEDICINE SERVICE

Section
250.2110 Service Requirements
250.2120 Personnel Required
250.2130 Facilities for Services
250.2140 Pharmacy and Therapeutics Committee

SUBPART S: PSYCHIATRIC SERVICES

Section
250.2210 Applicability of other Parts of these Regulations
250.2220 Establishment of a Psychiatric Service
250.2230 The Medical Staff
250.2240 Nursing Service
250.2250 Allied Health Personnel
250.2260 Staff and Personnel Development and Training
250.2270 Admission, Transfer and Discharge Procedures
250.2280 Care of Patients
250.2290 Special Medical Record Requirements for Psychiatric Hospitals and Psychiatric Units of General Hospitals or General Hospitals Providing Psychiatric Care
250.2300 Diagnostic, Treatment and Physical Facilities and Services

SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

Section
250.2410 Applicability of these Standards
250.2420 Submission of Plans for New Construction, Alterations or Additions to Existing Facility
250.2430 Preparation of Drawings and Specifications -- Submission Requirements
250.2440 General Hospital Standards
250.2450 Details
250.2460 Finishes
250.2470 Structural
250.2480 Mechanical
250.2490 Plumbing and Other Piping Systems
250.2500 Electrical Requirements

SUBPART U: CONSTRUCTION STANDARDS FOR EXISTING HOSPITALS

Section
250.2610 Applicability of these Standards

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

250.2620 Codes and Standards
250.2630 Existing General Hospital Standards
250.2640 Details
250.2650 Finishes
250.2660 Mechanical
250.2670 Plumbing and Other Piping Systems
250.2680 Electrical Requirements

SUBPART V: SPECIAL CARE AND SPECIAL SERVICE UNITS

Section
250.2710 Special Care and/or Special Service Units
250.2720 Day Care for Mildly Ill Children

SUBPART W: ALCOHOLISM AND INTOXICATION TREATMENT SERVICES

Section
250.2810 Applicability of Other Parts of These Requirements
250.2820 Establishment of an Alcoholism and Intoxication Treatment Service
250.2830 Classification and Definitions of Service and Programs
250.2840 General Requirements for all Hospital Alcoholism Program Classifications
250.2850 The Medical and Professional Staff
250.2860 Medical Records
250.2870 Referral
250.2880 Client Legal and Human Rights

ILLUSTRATION A Seismic Zone Map
APPENDIX A Codes and Standards (Repealed)
EXHIBIT A Codes (Repealed)
EXHIBIT B Standards (Repealed)
EXHIBIT C Addresses of Sources (Repealed)
TABLE A Measurements Essential for Level I, II, III Hospitals
TABLE B Sound Transmission Limitations in General Hospitals
TABLE C Filter Efficiencies for Central Ventilation and Air Conditioning Systems in General Hospitals (Repealed)
TABLE D General Pressure Relationships and Ventilation of Certain Hospital Areas (Repealed)
TABLE E Piping Locations for Oxygen, Vacuum and Medical Compressed Air
TABLE F General Pressure Relationships and Ventilation of Certain Hospital Areas
TABLE G Insulation/Building Perimeter

AUTHORITY: Implementing and authorized by the Hospital Licensing Act [210 ILCS 85].

SOURCE: Rules repealed and new rules adopted August 27, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

150 days; amended at 2 Ill. Reg. 21, p. 49, effective May 16, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 45, p. 85, effective November 6, 1978; amended at 3 Ill. Reg. 17, p. 88, effective April 22, 1979; amended at 4 Ill. Reg. 22, p. 233, effective May 20, 1980; amended at 4 Ill. Reg. 25, p. 138, effective June 6, 1980; amended at 5 Ill. Reg. 507, effective December 29, 1980; amended at 6 Ill. Reg. 575, effective December 30, 1981; amended at 6 Ill. Reg. 1655, effective January 27, 1982; amended at 6 Ill. Reg. 3296, effective March 15, 1982; amended at 6 Ill. Reg. 7835 and 7838, effective June 17, 1982; amended at 7 Ill. Reg. 962, effective January 6, 1983; amended at 7 Ill. Reg. 5218 and 5221, effective April 4, 1983 and April 5, 1983; amended at 7 Ill. Reg. 6964, effective May 17, 1983; amended at 7 Ill. Reg. 8546, effective July 12, 1983; amended at 7 Ill. Reg. 9610, effective August 2, 1983; codified at 8 Ill. Reg. 19752; amended at 8 Ill. Reg. 24148, effective November 29, 1984; amended at 9 Ill. Reg. 4802, effective April 1, 1985; amended at 10 Ill. Reg. 11931, effective September 1, 1986; amended at 11 Ill. Reg. 10283, effective July 1, 1987; amended at 11 Ill. Reg. 10642, effective July 1, 1987; amended at 12 Ill. Reg. 15080, effective October 1, 1988; amended at 12 Ill. Reg. 16760, effective October 1, 1988; amended at 13 Ill. Reg. 13232, effective September 1, 1989; amended at 14 Ill. Reg. 2342, effective February 15, 1990; amended at 14 Ill. Reg. 13824, effective September 1, 1990; amended at 15 Ill. Reg. 5328, effective May 1, 1991; amended at 15 Ill. Reg. 13811, effective October 1, 1991; amended at 17 Ill. Reg. 1614, effective January 25, 1993; amended at 17 Ill. Reg. 17225, effective October 1, 1993; amended at 18 Ill. Reg. 11945, effective July 22, 1994; amended at 18 Ill. Reg. 15390, effective October 10, 1994; amended at 19 Ill. Reg. 13355, effective September 15, 1995; emergency amendments at 20 Ill. Reg. 474, effective January 1, 1996, for a maximum of 150 days.

SUBPART D: PERSONNEL SERVICE

Section 250.435 Health Care Worker Background Check
EMERGENCY

a) The hospital shall not *knowingly hire any individual* after January 1, 1996 *in a position with duties involving direct care for patients* if that person *has been convicted of committing or attempting to commit one or more of* the following *offenses* (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):
   1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5]);
   2) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961);
   3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961);
   4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

12-4.6, and 12-4.7 of the Criminal Code of 1961);
   5) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-15, and 12-16 of the Criminal Code of 1961);
   6) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961);
   7) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961);
   8) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1, and 19-3 of the Criminal Code of 1961);
   9) Criminal trespass (Section 19-4 of the Criminal Code of 1961);
   10) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961);
   11) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961);
   12) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, and 9]); or
   13) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1]).

b) The hospital shall not *knowingly employ or retain any individual* after January 1, 1997 *in a position with duties involving direct care for patients* if that person *has been convicted of committing or attempting to commit one or more of the offenses* listed in subsections (a)(1)-(13) of this Section *unless the applicant, employee,* or employer *obtains a waiver pursuant to* subsections (i) and (j) of this Section. (Section 25 of the Health Care Worker Background Check Act)

c) For the purpose of this Section:
   1) *"Applicant"* means *an individual seeking employment with* a hospital *who has received a bona fide conditional offer of employment.*
   2) *"Conditional offer of employment"* means *a bona fide offer of employment by* a hospital *to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses* listed in subsections (a)(1)-(13) of this Section.
   3) *"Direct care"* means *the provision of nursing or personal care.* (Section 15 of the Health Care Worker Background Check Act)
   4) *"Personal care"* means *assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being* of a resident. (Section 15 of the Health Care Worker Background Check Act)

d) *Beginning January 1, 1995* when the hospital *makes a conditional offer of employment to an applicant* who is not exempt under subsection (1) of this Section, *for a position with duties that involve direct care*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

for patients, the employer *must initiate a* Uniform Conviction Information Act (UCIA) *Criminal History Record Check for that applicant.* (Section 30 of the Health Care Worker Background Check Act)

e) *No later than January 1, 1997 a* hospital *must initiate a UCIA Criminal History Record Check for all employees* who were hired before January 1, 1996 who have not already had a UCIA Criminal History Record Check, and who are not exempt because of subsection (l) of this Section *with duties that involve direct care for patients.* (Section 30 of the Health Care Worker Background Check Act)

f) *The request for a UCIA Criminal History Record Check shall be* made as *prescribed by the Department of State Police. The applicant* or *employee must be notified of the following whenever a non-fingerprint UCIA* Criminal History Record *search is made:*

1) *That the* hospital *shall request a UCIA Criminal History Record Check pursuant to* the Health Care Worker Background Check Act.

2) *That the applicant* or *employee has a right to obtain a copy of the Criminal Records Report, challenge the accuracy and completeness of the report, and request a waiver* in accordance with subsection (i) of this Section.

3) *That the applicant, if hired conditionally, may be terminated if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's identity is validated and it is determined that the* applicant or employee *does not have a disqualifying Criminal History Record based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section.

4) *That the applicant, if not hired conditionally, shall not be hired if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's record is cleared based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section.

5) *That the employee may be terminated if the Criminal Records Report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's record is cleared based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section. (Section 30 of the Health Care Worker Background Check Act)

g) A hospital *may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA Criminal History Record Check.* (Section 30 of the Health Care Worker Background Check Act)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

h) *An applicant or employee whose UCIA Criminal History Record Check indicates a conviction for committing or attempting to commit one or more of the offenses* listed in subsections (a)(1)-(13) of this Section *may request the* hospital to *commence a fingerprint-based UCIA Criminal Records Check by submitting information in a form and manner prescribed by the Department of State Police.* (Section 35 of the Health Care Worker Background Check Act)

i) *An applicant, employee* or employer *may request a waiver* to subsection (a) or (b) of this Section by submitting the following *within 30 days after the receipt of the Criminal Records Report:*

1) *Information necessary to initiate a fingerprint-based UCIA Criminal Records Check in a form and manner prescribed by the Department of State Police* (Section 40 of the Health Care Worker Background Check Act); and

2) A certified check or money order made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA Criminal Records Check.

j) The Department *may grant a waiver based on mitigating circumstances, which may include:*

1) *The age at which the crime was committed;*

2) *The circumstances surrounding the crime;*

3) *The length of time since the conviction;*

4) *The applicant's or employee's criminal history since the conviction;*

5) *The applicant's or employee's work history;*

6) *The applicant's or employee's current employment references;*

7) *The applicant's or employee's character references; and*

8) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of patients.* (Section 40 of the Health Care Worker Background Check Act)

k) A hospital *is not obligated to employ or offer permanent employment to an applicant, or retain an employee who is granted a waiver.* (Section 40(d) of the Health Care Worker Background Check Act)

l) This Section *shall not apply to:*

1) *An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law; or*

2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State.* (Section 20 of the Health Care Worker Background Check Act)

m) *The* hospital *shall retain on file for a period of 5 years records of criminal records requests for all employees, other than nurse aides. The file shall be subject to inspection by the* Department. A *fine of $500* shall *be imposed for failure to maintain these records.* (Section 50 of the Health Care Worker Background Check Act)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

(Source: Emergency amendment at 20 Ill. Reg. 474, effective January 1, 1996, for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Illinois Home Health Agency Code

2) Code Citation: 77 Ill. Adm. Code 245

3) Section Numbers: Action:

245.72 New Section

4) Statutory Authority: Home Health Agency Licensing Act [210 ILCS 55]

5) Effective Date of Emergency Amendments: January 1, 1996

6) If this emergency rules is to expire before the end of the 150 day period, please specify the date on which it is to expire: This emergency will not expire before the end of the 150 day period.

7) Date Filed in Agency's Principal Office: January 1, 1996

8) Reason for Emergency: The Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995) established requirements for the Uniform Conviction Information Act (UCIA) criminal history record checks for certain health care workers. The Act applies to all individuals employed or retained by a health care employer as home health care aides, nurse aides, personal care assistants, private duty nurse aides, student nurses, day training personnel or any similar health-related occupation. Health care employers include community living facilities, life care facilities, long-term care facilities, home health agencies, full hospices, hospitals, community residential alternatives, nurse agencies, respite care providers, certified day training programs, and community integrated living arrangements. Individuals who are licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State or who are employed or retained by a health care employer for whom a criminal background check is required by another law of this State are exempt from the Act.

Beginning January 1, 1996, the Department of Public Health or its designee that tests nurse aides must request a UCIA criminal history records check for each nurse aide applying for inclusion on the State nurse aide registry. Also beginning January 1, 1996, a health care employer who makes a conditional offer of employment to an applicant other than a nurse aide for a position with duties that involve direct care for clients, patients, or residents must initiate a UCIA criminal history record check for that applicant. Criminal history record checks for all other nonlicensed direct care employees must be initiated no later than January 1, 1997. After January 1, 1996, or January 1, 1997, as applicable, health care employers are prohibited from hiring, employing, or retaining any individual in a direct care position who has been convicted of committing or attempting to commit one or more of the offenses listed in the Act.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

The Act includes a provision whereby a waiver of the employment prohibition may be requested by submitting certain information to the entity responsible for inspecting, licensing, certifying or registering the health care employer within 30 days after receipt of the criminal records report.

Health care employers are required to retain on file for a period of five years, records of criminal records requests for all employees covered under the Act, other than nurse aides. The Department of Public Health is required to include in its nurse aide registry the date of a nurse aide's last criminal records check and information concerning disqualification pursuant to the Act.

Enactment of P.A. 89-197 has an impact on many of the Department's regulatory programs, requiring amendments to ten Parts (77 Ill. Adm. Code 300, 330, 340, 350, 370, 390, 245, 250, 280, and 395). To enforce the law uniformly, the Department determined that all of the rule changes should be adopted at once; however, the rule changes are required by law to be reviewed by each program's respective licensing or advisory board, which meets quarterly. The rule changes were presented to the State Board of Health on September 14, 1995 (Parts 280 and 370); to the Home Health Advisory Council on October 25, 1995 (Part 245); to the Hospital Licensing Board on November 15, 1995 (Part 250); and to the Long-Term Care Facility Advisory Board on November 15, 1995 (Parts 300, 330, 340, 350, 390, and 395). Background checks under P.A. 89-197 are required to begin on January 1, 1996. Implementation of the Act will help to protect the health, safety and welfare of recipients of health care services through a variety of providers throughout the State. Thousands of health care workers are affected by this legislation, which will prohibit persons who have been convicted of serious crimes from employment in positions involving direct care of patients or residents. The Department is mandated to begin implementing the Act on January 1, 1996. Therefore, the Department believes that emergency rulemaking is necessary to meet the time frames imposed by the Act.

9) A Complete Description of the Subjects and Issues Involved: The rules in Part 245 establish requirements for the licensure of home health agencies in Illinois. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 245.72 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), agencies are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment,"

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

"direct care," and "personal care," as they apply to this Section, are included in subsection (c). Subsection (d) requires agencies to initiate UCIA criminal history record checks, beginning January 1, 1996, when the agency makes a conditional offer of employment to an applicant for a position with duties that involve direct care for patients. Home health agencies are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (l). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Agencies are not obligated to employ applicants who are granted waivers (subsection (k)). Requirements for retention of records are set forth in subsection (m).

10) Are there any proposed amendments to this Part pending? Yes

Section	Proposed Action	Illinois Register Citation
245.20	Amendments	19 Ill. Reg. 11325
245.25	Amendments	19 Ill. Reg. 11325
245.30	Amendments	19 Ill. Reg. 11325
245.40	Amendments	19 Ill. Reg. 11325
245.50	Amendments	19 Ill. Reg. 11325
245.70	Amendments	19 Ill. Reg. 11325

11) Statement of Statewide Policy Objectives: This rulemaking will affect county health departments.

12) Information and Questions regarding these amendments shall be directed to:

Ms. Gail Devito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson Street, Fifth Floor
Springfield, IL 62761
(217) 782-6187

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 245
ILLINOIS HOME HEALTH AGENCY CODE

SUBPART A: GENERAL PROVISIONS

Section
245.10 Purpose
245.20 Definitions
245.25 Incorporated and Referenced Materials

SUBPART B: OPERATIONAL REQUIREMENTS

Section
245.30 Organization and Administration
245.40 Staffing and Staff Responsibilities
245.50 Services
245.60 Annual Financial Statement
245.70 Requirements for State Approved Home Health Aide Training Programs
245.72 Health Care Worker Background Check
EMERGENCY

SUBPART C: LICENSURE PROCEDURES

Section
245.80 Licensure Required
245.90 License Application
245.100 Provisional License
245.110 Inspections and Investigations
245.120 Violations
245.130 Adverse Licensure Actions
245.140 Penalties and Fines
245.150 Hearings

AUTHORITY: Implementing and authorized by the Home Health Agency Licensing Act [210 ILCS 55].

SOURCE: Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, p. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, p. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, p. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, p. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill Reg.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14 Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 483, effective January 1, 1996, for a maximum of 150 days.

SUBPART B: OPERATIONAL REQUIREMENTS

Section 245.72 Health Care Worker Background Check
EMERGENCY

a) The agency shall not *knowingly hire any individual* after January 1, 1996, *in a position with duties involving direct care for patients* if that person *has been convicted of committing or attempting to commit one or more of* the following *offenses* (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46]):
   1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5]);
   2) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961);
   3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961);
   4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961);
   5) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-15, and 12-16 of the Criminal Code of 1961);
   6) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961);
   7) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961);
   8) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1, and 19-3 of the Criminal Code of 1961);
   9) Criminal trespass (Section 19-4 of the Criminal Code of 1961);
   10) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961);
   11) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961);
   12) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1 and 9]); or
   13) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1]).

b) The agency shall not *knowingly employ or retain any individual* after January 1, 1997, *in a position with duties involving direct care for*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

patients if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (i) and (j) of this Section. (Section 25 of the Health Care Worker Background Check Act)

c) For the purpose of this Section:

1) "Applicant" means an individual seeking employment with an Agency who has received a bona fide conditional offer of employment.

2) "Conditional 'offer of employment" means a bona fide offer of employment by an Agency to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1)-(13) of this Section.

3) "Direct care" means the provision of nursing or personal care.

4) "Personal care" means assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of a patient. (Section 15 of the Health Care Worker Background Check Act)

d) Beginning January 1, 1996, when the agency makes a conditional offer of employment to an applicant who is not exempt under subsection (l) of this Section, for a position with duties that involve direct care for patients, the employer must initiate a Uniform Conviction Information Act (UCIA) Criminal History Record Check for that applicant. (Section 30 of the Health Care Worker Background Check Act)

e) No later than January 1, 1997, an agency must initiate a UCIA Criminal History Record Check for all employees who were hired before January 1, 1996, who have not already had a UCIA Criminal History Record Check, and who are not exempt because of subsection (l) of this Section with duties that involve direct care for patients residents. (Section 30 of the Health Care Worker Background Check Act)

f) The request for a UCIA Criminal History Record Check shall be made as prescribed by the Department of State Police. The Applicant or employee must be notified of the following whenever a non-finger print UCIA Criminal History Record search is made:

1) That the agency shall request a UCIA Criminal History Record Check pursuant to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of the Criminal Records Report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (i) of this Section.

3) That the applicant, if hired conditionally, may be terminated if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's identity is validated and it is determined that the applicant or

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

employee does not have a disqualifying Criminal History Record based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsections (i) and (j) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsections (i) and (j) of this Section.

5) That the employee may be terminated if the Criminal Records Report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsections (i) and (j) of this Section. (Section 30 of the Health Care Worker Background Check Act)

g) An agency may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA Criminal History Record Check. (Section 30 of the Health Care Worker Background Check Act)

h) An applicant or employee whose UCIA Criminal History Record Check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section may request the agency or the Department to commence a fingerprint-based UCIA Criminal Records Check by submitting information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

i) An applicant, employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following to the Department within 30 days after the receipt of the Criminal Records Report:

1) Information necessary to initiate a fingerprint-based UCIA Criminal Records Check in a form and manner prescribed by the Department of State Police (Section 40 of the Health Care Worker Background Check Act); and

2) A certified check or money order made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA Criminal Records Check.

j) The Department may grant a waiver based on mitigating circumstances, which may include:

1) The age at which the crime was committed;

2) The circumstances surrounding the crime;

3) The length of time since the conviction;

4) The applicant's or employee's criminal history since the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

conviction;

5) *The applicant's of employee's work history;*

6) *The applicant's or employee's current employment references;*

7) *The applicant's or employee's character references; and*

8) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of patients.* (Section 40 of the Health Care Worker Background Check Act)

k) An agency *is not obligated to employ or offer permanent employment to an applicant, or retain an employee who is granted a waiver.* (Section 40(d) of the Health Care Worker Background Check Act)

l) This Section *shall not apply to:*

1) *an individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law; or*

2) *an individual employed or retained by a health care employer for whom a criminal background check is required by another law of this state.* (Section 20 of the Health Care Worker Background Check Act)

m) *The* agency *shall retain on file for a period of 5 years records of criminal records requests for all employees, other than nurse aides. The file shall be subject to inspection by the* Department. A *fine of $500* shall *be imposed for failure to maintain these records.* (Section 50 of the Health Care Worker Background Check Act)

(Source: Emergency amendment at 20 Ill. Reg. 1488, effective JAN 01 1996, for a maximum of 150 days)

DEPARTMENT OF EMERGENCY AMENDMENTS

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Illinois Veterans' Homes Code

2) Code Citation: 77 Ill. Adm. Code 340

3) Section Numbers: Adopted Action:

340.1375	Amendments
340.1376	New Section
340.1377	New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective Date of Emergency Amendments: January 1, 1996

6) If this emergency rules is to expire before the end of the 150 day period, please specify the date on which it is to expire: This emergency will not expire before the end of the 150 day period.

7) Date Filed in Agency's Principal Office: January 1, 1996

8) Reason for Emergency: The Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995) established requirements for the Uniform Conviction Information Act (UCIA) criminal history record checks for certain health care workers. The Act applies to all individuals employed or retained by a health care employer as home health care aides, nurse aides, personal care assistants, private duty nurse aides, student nurses, day training personnel or any similar health-related occupation. Health care employers include community living facilities, life care facilities, long-term care facilities, home health agencies, full hospices, hospitals, community residential alternatives, nurse agencies, respite care providers, certified day training programs, and community integrated living arrangements. Individuals who are licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State or who are employed or retained by a health care employer for whom a criminal background check is required by another law of this State are exempt from the Act.

Beginning January 1, 1996, the Department of Public Health or its designee that tests nurse aides must request a UCIA criminal history records check for each nurse aide applying for inclusion on the State nurse aide registry. Also beginning January 1, 1996, a health care employer who makes a conditional offer of employment to an applicant other than a nurse aide for a position with duties that involve direct care for clients, patients, or residents must initiate a UCIA criminal history record check for that applicant. Criminal history record checks for all other nonlicensed direct care employees must be initiated no later than January 1, 1997. After January 1, 1996, or January 1, 1997, as applicable, health care employers are prohibited from hiring, employing, or retaining any

DEPARTMENT OF EMERGENCY AMENDMENTS

NOTICE OF EMERGENCY AMENDMENTS

individual in a direct care position who has been convicted of committing or attempting to commit one or more of the offenses listed in the Act.

The Act includes a provision whereby a waiver of the employment prohibition may be requested by submitting certain information to the entity responsible for inspecting, licensing, certifying or registering the health care employer within 30 days after receipt of the criminal records report.

Health care employers are required to retain on file for a period of five years records of criminal records requests for all employees covered under the Act, other than nurse aides. The Department of Public Health is required to include in its nurse aide registry the date of a nurse aide's last criminal records check and information concerning disqualification pursuant to the Act.

Enactment of P.A. 89-197 has an impact on many of the Department's regulatory programs, requiring amendments to ten Parts (77 Ill. Adm. Code 300, 330, 340, 350, 370, 390, 245, 250, 280, and 395). To enforce the law uniformly, the Department determined that all of the rule changes should be adopted at once; however, the rule changes are required by law to be reviewed by each program's respective licensing or advisory board, which meets quarterly. The rule changes were presented to the State Board of Health on September 14, 1995 (Parts 280 and 370); to the Home Health Advisory Council on October 25, 1995 (Part 245); to the Hospital Licensing Board on November 15, 1995 (Part 250); and to the Long-Term Care Facility Advisory Board on November 15, 1995 (Parts 300, 330, 340, 350, 390, and 395). Background checks under P.A. 89-197 are required to begin on January 1, 1996. Implementation of the Act will help to protect the health, safety and welfare of recipients of health care services through a variety of providers throughout the State. Thousands of health care workers are affected by this legislation, which will prohibit persons who have been convicted of serious crimes from employment in positions involving direct care of patients or residents. The Department is mandated to begin implementing the Act on January 1, 1996. Therefore, the Department believes that emergency rulemaking is necessary to meet the time frames imposed by the Act.

9) A Complete Description of the Subjects and Issues Involved: The rules in Part 340 establish requirements for the licensure of Illinois veterans' homes. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 340.1375 is amended to include new requirements for nursing assistants under the Health Care Worker Background Check Act. Facilities are required to contact the Department's nurse aide registry to find out whether the individual has a current background check. Provisions concerning placement of a nursing assistant on the registry are deleted,

DEPARTMENT OF EMERGENCY AMENDMENTS

NOTICE OF EMERGENCY AMENDMENTS

since a new Section 340.1376 is being added to specify and clarify registry requirements.

Section 340.1376 is added to set forth requirements for registry of certified nurse aides, which are expanded under P.A. 89-197.

Section 340.1377 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," and "direct care," as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care for residents. Facilities are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (l). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Facilities are not obligated to employ applicants who are granted waivers (subsection (k)). Subsection (m) requires facilities to send a copy of the results of the background check to the State nurse aide registry. Requirements for retention of records are set forth in subsection (n).

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

12) Information and Questions regarding these amendments shall be directed to:

Ms. Gail Devito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson Street, Fifth Floor
Springfield, IL 62761

DEPARTMENT OF EMERGENCY AMENDMENTS

NOTICE OF EMERGENCY AMENDMENTS

(217) 782-6187

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF EMERGENCY AMENDMENTS

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 340
ILLINOIS VETERANS' HOMES CODE

SUBPART A: GENERAL PROVISIONS

Section
340.1000 Definitions
340.1010 Incorporated and Referenced Materials
340.1110 General Requirements
340.1115 Federal Veterans' Regulations
340.1120 Application for License
340.1130 Criteria for Adverse Licensure Actions
340.1140 Denial of Initial License
340.1150 Revocation or Denial of Renewal of License
340.1160 Inspections, Surveys, Evaluations, and Consultations
340.1170 Presentation of Findings by the Department
340.1190 Ownership Disclosure
340.1200 Monitor and Receivership
340.1210 Determination of a Violation
340.1220 Determination of the Level of a Violation
340.1230 Plans of Correction and Reports of Correction
340.1240 Calculation of Penalties
340.1245 Conditions for Assessment of Penalties
340.1250 Reduction or Waiver of Penalties
340.1260 Waivers

SUBPART B: POLICIES AND FACILITY RECORDS

Section
340.1300 Facility Policies
340.1310 Admission and Discharge Policies
340.1320 Disaster Preparedness
340.1330 Serious Incidents and Accidents
340.1335 Infection Control
340.1340 Facility Record Requirements
340.1350 Personnel Policies
340.1360 Initial Health Evaluation for Employees
340.1370 Administrator
340.1375 Personnel Requirements
EMERGENCY
340.1376 Registry of Certified Nurse Aides
EMERGENCY
340.1377 Health Care Worker Background Check
EMERGENCY

DEPARTMENT OF EMERGENCY AMENDMENTS

NOTICE OF EMERGENCY AMENDMENTS

SUBPART C: RESIDENT RIGHTS

Section
340.1400 Implementation of Resident Rights and Facility Responsibilities
340.1410 General
340.1420 Contract Between Resident and Facility
340.1430 Residents' Advisory Council
340.1440 Abuse and Neglect
340.1450 Communication and Visitation
340.1460 Resident's Funds
340.1470 Transfer or Discharge
340.1480 Complaint Procedures
340.1490 Private Right of Action

SUBPART D: HEALTH SERVICES

Section
340.1500 Medical Care Policies
340.1505 Medical, Nursing and Restorative Services
340.1510 Communicable Disease Policies
340.1520 Tuberculin Skin Test Procedures
340.1530 Physician Services
340.1535 Dental Programs
340.1540 Life-Sustaining Treatments
340.1550 Obstetrical and Gynecological Care
340.1560 Nursing Personnel
340.1570 Personal Care
340.1580 Restraints
340.1590 Non emergency Use of Physical Restraints
340.1600 Emergency Use of Physical Restraints
340.1610 Unnecessary, Psychotropic, and Antipsychotic Drugs
340.1620 Medication Administration
340.1630 Self-Administration of Medication

SUBPART E: MEDICATION ADMINISTRATION SERVICES

Section
340.1650 Medication Policies and Procedures
340.1655 Conformance with Physician's Orders
340.1660 Administration of Medication
340.1665 Control of Medication
340.1670 Labeling and Storage of Medication

SUBPART F: RESIDENT LIVING SERVICES

Section
340.1700 Recreational and Activity Programs
340.1710 Social Services

DEPARTMENT OF EMERGENCY AMENDMENTS

NOTICE OF EMERGENCY AMENDMENTS

340.1720 Work Programs

SUBPART G: RESIDENT RECORDS

Section
340.1800 Resident Record Requirements
340.1810 Content of Medical Record
340.1820 Records Pertaining to Resident's Property
340.1830 Retention, Transfer, and Inspection of Records
340.1840 Confidentiality of Resident's Records

SUBPART H: FOOD SERVICE

Section
340.1900 Food Service Staff
340.1910 Diet Orders
340.1920 Adequacy of Diet and Meal Pattern
340.1930 Therapeutic Diets
340.1940 Menu Planning
340.1950 Food Preparation and Service
340.1960 Kitchen Equipment, Utensils and Supplies

SUBPART I: PHYSICAL PLANT SERVICES, FURNISHINGS, EQUIPMENT AND SUPPLIES

Section
340.2000 Maintenance
340.2010 Water Supply, Sewage Disposal and Plumbing
340.2020 Housekeeping
340.2030 Laundry Services
340.2040 Furnishings
340.2050 Equipment and Supplies
TABLE A Disaster Preparedness Parameters--Relative Humidity and Temperature
TABLE B Guidelines for the Use of Various Drugs

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rule adopted at 18 Ill. Reg. 10391, effective June 21, 1994, for a maximum of 150 days; emergency expired November 18, 1994; adopted at 19 Ill. Reg. 5679, effective April 3, 1995; emergency amendment at 20 Ill. Reg. _____, effective January 1, 1996; amended at 20 Ill. Reg. 498, effective JAN 01 1996.

SUBPART B: POLICES AND FACILITY RECORDS

Section 340.1375 Personnel Requirements

DEPARTMENT OF EMERGENCY AMENDMENTS

NOTICE OF EMERGENCY AMENDMENTS

a) Supervision of Nursing Services
   1) The facility shall have a director of nursing service (DONS) who shall be a registered nurse.
      A) This person shall have knowledge and training in nursing service administration and restorative and rehabilitative nursing. This person shall also have some knowledge and training in the care of the type of residents for which the facility cares.
      B) This person shall be a full-time employee who is on duty a minimum of 36 hours, four days per week.
      C) A facility may, with written approval from the Department, have two nurses share the duties of this position if it is unable to obtain a full-time person. Such an arrangement will be granted approval only through written documentation that the facility was unable to obtain the full-time services of a qualified individual to fill this position. Such documentation shall include, but not be limited to: an advertisement that has appeared in a newspaper of general circulation in the area for at least three weeks; the names, addresses and phone numbers of all persons who applied for the position and the reasons why they were not acceptable or would not work full-time; and information about the numbers and availability of licensed nurses in the area. The Department will approve only when such documentation indicates that there were no qualified applicants who were willing to accept the job on a full-time basis, and the pool of nurses available in the area cannot be expected to produce, in the near future, a qualified person who is willing to work full-time.
      D) In facilities of less than 50 beds, this person may also provide direct patient care, and this person's time may be included in meeting staff/resident ratio requirements.
   2) Facilities of 100 or more beds, shall have a licensed nurse designated as the assistant director of nursing service. This person shall perform the duties of the DONS when the DONS is on vacation or extended sick leave. The assistant may provide direct patient care and be included in the staff to resident ratio calculations when not acting as the DONS.
      A) The assistant shall be a full-time employee who is on duty a minimum of 36 hours, four days per week. The assistant may be assigned to work hours any time of the day or night.
      B) The assistant shall assist the DONS in carrying out the responsibilities of the DONS.
   3) The DONS shall oversee the nursing services of the facility. This person's duties shall include:
      A) Assigning and directing the activities of nursing service personnel.
      B) Assuring that resident care plans are developed and

DEPARTMENT OF EMERGENCY AMENDMENTS

NOTICE OF EMERGENCY AMENDMENTS

maintained.
      C) Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.
      D) Participating in planning and budgeting for nursing services including purchasing of necessary equipment and supplies.
      E) Developing and maintaining nursing service objectives, standards of nursing practice, written policies and procedures, and written job descriptions for each level of nursing personnel.
      F) Coordinating health services and nursing services with other resident care services such as medical, pharmaceutical, dietary activities, and any other restorative/rehabilitative services offered.
      G) Planning of inservice education, embracing orientation, skill training, and ongoing education for all personnel covering all aspects of resident care and programming. The education program shall include training and practice in activities and restorative/rehabilitative nursing techniques through out-of-facility or in-facility training programs. This person may conduct these programs personally or see to it that they are carried out.
      H) Participating in the development and implementation of resident care policies and bringing resident care problems, requiring changes in policy, to the attention of the facility's policy development group.
      I) Participating in the screening of prospective residents and their placement in terms of services they need and nursing competencies available.

b) Nursing Personnel
   1) There shall be a licensed or registered nurse on duty and designated as being in charge of nursing services on all shifts when neither the director of nursing service nor assistant director of nursing service is on duty. If registered nurses and licensed practical nurses are on duty on the same shift, this charge nurse shall be the registered nurse.
   2) There shall be at least one registered nurse on duty seven days per week for eight consecutive hours. There shall be at least one registered nurse or licensed practical nurse on duty on each floor housing residents.
   3) The need for licensed nurses on each nursing unit in a nursing facility will be determined on an individual case basis, dependent upon the individual situation. The need for an additional registered or licensed practical nurse to serve as a "house supervisor" will be determined on an individual basis. If such additional staffing is required, the Department will inform the facility in writing of the kind and amount of additional

DEPARTMENT OF EMERGENCY AMENDMENTS

NOTICE OF EMERGENCY AMENDMENTS

staff time required, and the reason why it is needed.

4) Nursing Assistants

A) The facility shall assure that each person employed by the facility as a nursing assistant complies with one of the following conditions no later than 45 days after the date of initial employment.

i) Provide documentation of registration on the Department's Nurse Aide Registry.

ii) Enroll in a Basic Nursing Assistant Training Program that has been approved by the Department under its rules governing training programs for nursing assistant and aides (77 Ill. Adm. Code 395). ~~and--pass the--Department--approved-nursing-assistant-competency examination.~~ The program ~~coursework~~ shall be successfully completed ~~and-the-competency--examination passed-by-the-nursing-assistant~~ no later than 120 days after the date of initial employment, unless that training program is conducted by a community college or other educational institution on a term, semester, or trimester basis. However, a nursing assistant may be employed no more than 120 days prior to the successful completion of the program.

iii) Submit documentation in accordance with Section 340.1376 of this Part in order to be registered on the Nurse Aide Registry. ~~Provide--documentation--from another-state-of-ce ti ation-as-a-nursing--assistant on-or-after-January 1, 990.~~

~~iv) Provide--documentati n-- f--successful-completion-of-a nursing-arts-course-in-an--accredited--nurse--training program--as--evidenced--by--a--diploma,-certificate-or other--written--verification--from--the---school---and successful---completion--of--the--Department--approved nursing-assistant-competency-examination.~~

B) The facility shall assure that each person employed by the facility as a nursing assistant shall meet each of the following requirements:

i) *Be at least 16 years of age, of temperate habits and good moral character, honest, reliable, and trustworthy.* (Section 3-206(a)(1) of the Act)

ii) *Be able to speak and understand the English language or a language understood by a substantial percentage of the facility's residents.* (Section 3-206(a)(2) of the Act)

iii) *Provide evidence of* prior *employment or occupation, if any, and residence for two years prior to ~~initial~~* present *employment as a nursing assistant.* (Section 3-206(a)(3) of the Act)

iv) *Have completed at least eight years of grade school or provide proof of equivalent knowledge.* (Section 3-206(a)(4) of the Act)

DEPARTMENT OF EMERGENCY AMENDMENTS

NOTICE OF EMERGENCY AMENDMENTS

C) *The facility shall certify* to the Department *the name and residence address of each nursing assistant employed by the facility, and that the employee subject to this Section meets all requirements of this Section.* Such certification shall be retained by the facility as part of the employee's personnel record. (Section 3-206(d) and (e) of the Act)

D) *A facility shall not employ an individual as a nurse aide unless the facility has inquired of the Department as to information in the registry concerning* the ~~that~~ individual ~~and--findings--of--resident--abuse,--resident---neglect---or misappropriation--of-resident-property~~. (Section 3-206.01 of the Act) The Department shall advise the inquirer if the individual is on the Registry, has findings of abuse, neglect or misappropriation of property in accordance with Section 3-206.01 and 3-206.02 of the Act, and if the individual has a current background check (see Section 340.1377 of this Part).

E) Nursing assistants must be able to demonstrate competency in the principles, techniques, and procedures covered by the basic nursing assistant training program curriculum described in the rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395).

c) There shall be at least one person on duty at all times who has been properly trained to handle the medical emergencies listed in Section 340.1300(f) of this Part. This person may also be counted in fulfilling the requirements of other subsections of this Section.

d) When facility has only one employee on duty, that employee shall have been certified within the past 12 months in the provision of basic life support by an American Heart Association or American Red Cross certified training program. When there is more than one person on duty in the facility, at least two of the people on duty shall be so certified. A facility employee who is on duty serving in any capacity in the facility may be utilized to meet this requirement.

e) Direct Care Staffing

1) The facility must have adequate staff in numbers, training and supervision to meet all residents nursing, personal care and psychosocial needs at all times.

2) Staffing shall apply to hours of actual on duty time, not hours scheduled to be provided. The Director of Nursing Services time shall not be included to fulfill required hours except as allowed in subsection (a)(1)(D) of this Section. Direct care staff includes licensed nurses, certified nurses aides, social service staff, qualified mental retardation professionals, and activity personnel.

3) Each resident shall be provided at least 2.0 direct care staff hours each day of which at least 20 percent must be licensed

nurse time.

4) In a facility whose residents participate in regularly scheduled therapeutic programs outside the facility, such as school or sheltered workshops, the minimum hours per day of direct care may be reduced proportionately as long as the facility meets the needs of the residents.

f) The facility shall provide a Resident Services Director who is assigned responsibility for the coordination and monitoring of the resident's comprehensive care plan. The director of nursing services or an individual on the professional staff of the facility may fill this assignment to assure that residents' comprehensive care plans are ~~plan--is~~ individualized, written in terms of short and long-range goals, understandable and utilized; their needs are met through appropriate staff interventions and community resources; and residents are involved, whenever possible, in the preparation of their plan of care.

(Source: Amended at 20 Ill. Reg. 488, effective JAN 01 1996)

Section 340.1376 Registry of Certified Nurse Aides
EMERGENCY

a) An individual will be placed on the Nurse Aide Registry when he/she has successfully completed a training program approved in accordance with the Long-Term Care Assistants and Aides Training Program Code (77 Ill. Adm. Code 395) and has met background check information required in Section 340.1377 of this Part, and when there are no findings of abuse, neglect, or misappropriation of property in accordance with Sections 3-206.01 and 3-206.02 of the Act.

b) An individual will be placed on the Nurse Aide Registry if he/she has met background check information required in Section 340.1377 of this Part and submits documentation supporting one of the following equivalencies:

1) Documentation of current registration from another state indicating that the requirements of 42 CFR 483.151 - 483.154 (October 1, 1994, no later amendments or editions included) have been met and that there are not documented findings of abuse, neglect, or misappropriation of property.

2) Documentation of successful completion of a nursing arts course with at least 40 hours of supervised clinical experience in an accredited nurse training program as evidenced by a diploma, certificate or other written verification from the school and successful completion of the Department-established nursing assistant competency test.

3) Documentation of successful completion of a United States military training program that includes the content of the Basic Nursing Assistant Training Program (see 77 Ill. Adm. Code 395) and at least 40 hours of supervised clinical experience, as evidenced by a diploma, certification, or other written verification and the written portion of the Department-established nursing assistant competency test.

(Source: Emergency amendment at 20 Ill. Reg. 489, effective JAN 01 1996, for a maximum of 150 days)

Section 340.1377 Health Care Worker Background Check
EMERGENCY

a) The facility shall not *knowingly hire any individual* after January 1, 1996 in a position with duties involving direct care for residents if that person *has been convicted of committing or attempting to commit one or more of* the following *offenses* (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5]);

2) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961);

3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961);

4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961);

5) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-15, and 12-16 of the Criminal Code of 1961);

6) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961);

7) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961);

8) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1, and 19-3 of the Criminal Code of 1961);

9) Criminal trespass (Section 19-4 of the Criminal Code of 1961);

10) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961);

11) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961);

12) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1 and 9]); or

13) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, 407]).

b) The facility shall not *knowingly employ or retain any individual* after January 1, 1997 *in a position with duties involving direct care for*

residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (i) and (j) of this Section. (Section 25 of the Health Care Worker Background Check Act)

c) For the purpose of this Section:

1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.

2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1)-(13) of this Section.

3) "Direct care" means the provision of nursing or personal care. (Section 15 of the Health Care Worker background Check Act)

d) Beginning January 1, 1996 when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (l) of this Section for a position with duties that involve direct care for residents, the employer shall inquire of the nurse aide registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) Criminal History Record Check. If a UCIA Criminal History Record Check has not been conducted within the last year, the facility must initiate a UCIA Criminal History Record Check for that applicant. (Section 30 of the Health Care Worker Background Check Act)

e) No later than January 1, 1997 a facility must initiate a UCIA Criminal History Record Check for all employees who were hired before January 1, 1996, who have not already had a UCIA Criminal History Record Check, and who are not exempt because of subsection (l) of this Section with duties that involve direct care for residents. (Section 30 of the Health Care Worker Background Check Act)

f) The request for a UCIA Criminal History Record Check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint UCIA Criminal History Record search is made:

1) That the facility shall request a UCIA Criminal History Record Check pursuant to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of the Criminal Records Report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (i) of this Section.

3) That the applicant, if hired conditionally, may be terminated if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying Criminal History Record

based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsections (i) and (j) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsections (i) and (j) of this Section.

5) That the employee may be terminated if the Criminal Records Report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (h) of this Section or the employee receives a waiver pursuant to subsections (i) and (j) of this Section. (Section 30 of the Health Worker Background Check Act)

g) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA Criminal History Record Check. (Section 30 of the Health Care Worker Background Check Act)

h) An applicant or employee whose UCIA Criminal History Record Check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section may request the facility to commence a fingerprint-based UCIA Criminal Records Check by submitting information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

i) An applicant, employee or employer may request a waiver to subsections (a) or (b) of this Section by submitting the following to the Department within 30 days after the receipt of the Criminal Records Report:

1) Information necessary to initiate a fingerprint-based UCIA Criminal Records Check in a form and manner prescribed by the Department of State Police (Section 40 of the Health Care Worker Background Check Act); and

2) A certified check or money order made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA Criminal Records Check.

j) The Department may grant a waiver based on mitigating circumstances, which may include:

1) The age at which the crime was committed;

2) The circumstances surrounding the crime;

3) The length of time since the conviction;

4) The applicant's or employee's criminal history since the conviction;

DEPARTMENT OF EMERGENCY AMENDMENTS

NOTICE OF EMERGENCY AMENDMENTS

5) *The applicant's or employee's work history;*
6) *The applicant's or employee's current employment references;*
7) *The applicant's or employee's character references; and*
8) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents.* (Section 40 of the Health Care Worker Background Check Act)

k) *A facility is not obligated to employ or offer permanent employment to an applicant, or retain an employee who is granted a waiver.* (Section 40(d) of the Health Care Worker Background Check Act)

l) This Section *shall not apply to:*
1) *An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law; or*
2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State.* (Section 20 of the Health Care Worker Background Check Act)

m) *The* facility *must send a copy of the results of the UCIA* Criminal History *Record Check to the State nurse aide registry.* (Section 30(b) of the Act)

n) *The* facility *shall retain on file for a period of 5 years records of criminal records requests for all employees, other than nurse aides. The file shall be subject to inspection by the* Department. *A fine of $500* shall *be imposed for failure to maintain these records.* (Section 50 of the Health Care Worker Background Check Act)

(Source: Emergency amendment at 20 Ill. Reg. 96, effective JAN 01 1996, for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Intermediate Care for Developmentally Disabled Facilities Code

2) Code Citation: 77 Ill. Adm. Code 340

3) Section Numbers: Action:

350.680	Amendments
350.681	New Section
350.683	New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective Date of Emergency Amendments: January 1, 1996

6) If this emergency rules is to expire before the end of the 150 day period, please specify the date on which it is to expire: This emergency will not expire before the end of the 150 day period.

7) Date Filed in Agency's Principal Office: January 1, 1996

8) Reason for Emergency: The Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995) established requirements for the Uniform Conviction Information Act (UCIA) criminal history record checks for certain health care workers. The Act applies to all individuals employed or retained by a health care employer as home health care aides, nurse aides, personal care assistants, private duty nurse aides, student nurses, day training personnel or any similar health-related occupation. Health care employers include community living facilities, life care facilities, long-term care facilities, home health agencies, full hospices, hospitals, community residential alternatives, nurse agencies, respite care providers, certified day training programs, and community integrated living arrangements. Individuals who are licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State or who are employed or retained by a health care employer for whom a criminal background check is required by another law of this State are exempt from the Act.

Beginning January 1, 1996, the Department of Public Health or its designee that tests nurse aides must request a UCIA criminal history records check for each nurse aide applying for inclusion on the State nurse aide registry. Also beginning January 1, 1996, a health care employer who makes a conditional offer of employment to an applicant other than a nurse aide for a position with duties that involve direct care for clients, patients, or residents must initiate a UCIA criminal history record check for that applicant. Criminal history record checks for all other nonlicensed direct care employees must be initiated no later than January 1, 1997. After January 1, 1996, or January 1, 1997, as applicable, health

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

care employers are prohibited from hiring, employing, or retaining any individual in a direct care position who has been convicted of committing or attempting to commit one or more of the offenses listed in the Act.

The Act includes a provision whereby a waiver of the employment prohibition may be requested by submitting certain information to the entity responsible for inspecting, licensing, certifying or registering the health care employer within 30 days after receipt of the criminal records report.

Health care employers are required to retain on file for a period of five years records of criminal records requests for all employees covered under the Act, other than nurse aides. The Department of Public Health is required to include in its nurse aide registry the date of a nurse aide's last criminal records check and information concerning disqualification pursuant to the Act.

Enactment of P.A. 89-197 has an impact on many of the Department's regulatory programs, requiring amendments to ten Parts (77 Ill. Adm. Code 300, 330, 340, 350, 370, 390, 245, 250, 280, and 395). To enforce the law uniformly, the Department determined that all of the rule changes should be adopted at once; however, the rule changes are required by law to be reviewed by each program's respective licensing or advisory board, which meets quarterly. The rule changes were presented to the State Board of Health on September 14, 1995 (Parts 280 and 370); to the Home Health Advisory Council on October 25, 1995 (Part 245); to the Hospital Licensing Board on November 15, 1995 (Part 250); and to the Long-Term Care Facility Advisory Board on November 15, 1995 (Parts 300, 330, 340, 350, 390, and 395). Background checks under P.A. 89-197 are required to begin on January 1, 1996. Implementation of the Act will help to protect the health, safety and welfare of recipients of health care services through a variety of providers throughout the State. Thousands of health care workers are affected by this legislation, which will prohibit persons who have been convicted of serious crimes from employment in positions involving direct care of patients or residents. The Department is mandated to begin implementing the Act on January 1, 1996. Therefore, the Department believes that emergency rulemaking is necessary to meet the time frames imposed by the Act.

9) A Complete Description of the Subjects and Issues Involved: The rules in Part 350 establish requirements for the licensure of intermediate care facilities for the developmentally disabled. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 350.680 is amended to include new requirements for nursing assistants and developmental disability aides under the Health Care Worker Background Check Act. Facilities are required to contact the Department's

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

nurse aide registry to find out whether the individual has a current background check. Provisions concerning placement of a DD aide on the Registry are deleted, since a new Section 350.683 is being added to specify and clarify Registry requirements.

Section 350.681 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," and "direct care," as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care for residents. Facilities are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (l). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Facilities are not obligated to employ applicants who are granted waivers (subsection (k)). Subsection (m) requires facilities to send a copy of the results of the background check to the State nurse aide registry. Requirements for retention of records are set forth in subsection (n).

Section 350.683 is added to set forth requirements for registry of developmental disabilities aides, which are expanded under P.A. 89-197.

10) Are there any proposed amendments to this Part pending? Yes

Section Numbers	Proposed Action	Illinois Register Citation
350.330	Amendments	19 Ill. Reg. 14561
350.1080	New Section	19 Ill. Reg. 14561
350.1082	New Section	19 Ill. Reg. 14561
350.1084	New Section	19 Ill. Reg. 14561
350.1086	New Section	19 Ill. Reg. 14561
350.1220	Amendments	19 Ill. Reg. 14561

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

350.1420	Amendments	19 Ill. Reg. 14561
Appendix E	New Section	19 Ill. Reg. 14561

11) Statement of Statewide Policy Objectives: This rulemaking will not establish or expand State mandates.

12) Information and Questions regarding these amendments shall be directed to:

Ms. Gail Devito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson Street, Fifth Floor
Springfield, IL 62761
(217) 782-6187

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350
INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section

350.110 General Requirements
350.120 Application for License
350.130 Licensee
350.140 Issuance of an Initial License for a New Facility
350.150 Issuance of an Initial License Due to a Change of Ownership
350.160 Issuance of a Renewal License
350.165 Criteria for Adverse Licensure Actions
350.170 Denial of Initial License
350.175 Denial of Renewal of License
350.180 Revocation of License
350.190 Experimental Program Conflicting With Requirements
350.200 Inspections, Surveys, Evaluations and Consultation
350.210 Filing an Annual Attested Financial Statement
350.220 Information to Be Made Available to the Public By the Department
350.230 Information to Be Made Available to the Public By the Licensee
350.240 Municipal Licensing
350.250 Ownership Disclosure
350.260 Issuance of Conditional Licenses
350.270 Monitor and Receivership
350.271 Presentation of Findings
350.272 Determination to Issue a Notice of Violation or Administrative Warning
350.274 Determination of the Level of a Violation
350.276 Notice of Violation
350.277 Administrative Warning
350.278 Plans of Correction
350.280 Reports of Correction
350.282 Conditions for Assessment of Penalties
350.284 Calculation of Penalties
350.286 Determination to Assess Penalties
350.288 Reduction or Waiver of Penalties
350.290 Quarterly List of Violators
350.300 Alcoholism Treatment Programs In Long-Term Care Facilities
350.310 Department May Survey Facilities Formerly Licensed
350.320 Waivers
350.330 Definitions
350.340 Incorporated and Referenced Materials

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

SUBPART B: ADMINISTRATION

Section
350.510 Administrator

SUBPART C: POLICIES

Section
350.610 Management Policies
350.620 Resident Care Policies
350.630 Admission and Discharge Policies
350.640 Contract Between Resident and Facility
350.650 Residents' Advisory Council
350.660 General Policies
350.670 Personnel Policies
350.675 Initial Health Evaluation for Employees
350.680 Developmental Disabilities Aides
EMERGENCY
350.681 Health Care Worker Background Check
EMERGENCY
350.683 Registry of Developmental Disabilities Aides
EMERGENCY
350.685 Student Interns
350.690 Disaster Preparedness
350.700 Serious Incidents and Accidents

SUBPART D: PERSONNEL

Section
350.810 Personnel
350.820 Consultation Services
350.830 Personnel Policies

SUBPART E: RESIDENT LIVING SERVICES

Section
350.1010 Service Programs
350.1020 Psychological Services
350.1030 Social Services
350.1040 Speech Pathology and Audiology Services
350.1050 Recreational and Activities Services
350.1060 Training and Habilitation Services
350.1070 Training and Habilitation Staff

SUBPART F: HEALTH SERVICES

Section
350.1210 Health Services

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

350.1220 Physician Services
350.1225 Tuberculin Skin Test Procedures
350.1230 Nursing Services
350.1235 Life-Sustaining Treatments
350.1240 Dental Services
350.1250 Physical and Occupational Therapy Services

SUBPART G: MEDICATIONS

Section
350.1410 Medication Policies and Procedures
350.1420 Conformance with Physician's Orders
350.1430 Administration of Medication
350.1440 Labeling and Storage
350.1450 Control of Narcotics and Legend Drugs

SUBPART H: RESIDENT AND FACILITY RECORDS

Section
350.1610 Resident Record Requirements
350.1620 Content of Medical Records
350.1630 Confidentiality of Resident's Records
350.1640 Records Pertaining to Residents' Property
350.1650 Retention and Transfer of Resident Records
350.1660 Other Resident Record Requirements
350.1670 Staff Responsibility for Medical Records
350.1680 Retention of Facility Records
350.1690 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section
350.1810 Director of Food Services
350.1820 Dietary Staff in Addition to Director of Food Services
350.1830 Hygiene of Dietary Staff
350.1840 Diet Orders
350.1850 Adequacy of Diet and Meal Pattern
350.1860 Therapeutic Diets
350.1870 Scheduling Meals
350.1880 Menu Planning
350.1890 Food Preparation and Service
350.1900 Food Handling Sanitation
350.1910 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section
350.2010 Maintenance

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

350.2020 Housekeeping
350.2030 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
350.2210 Furnishings
350.2220 Equipment and Supplies

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section
350.2410 Codes
350.2420 Water Supply
350.2430 Sewage Disposal
350.2440 Plumbing

SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section
350.2610 Applicability of These Standards
350.2620 Codes and Standards
350.2630 Preparation of Drawings and Specifications
350.2640 Site
350.2650 Administration and Public Areas
350.2660 Nursing Unit
350.2670 Dining, Living, Activities Rooms
350.2680 Therapy and Personal Care
350.2690 Service Departments
350.2700 General Building Requirements
350.2710 Structural
350.2720 Mechanical Systems
350.2730 Plumbing Systems
350.2740 Electrical Systems

SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section
350.2910 Applicability
350.2920 Codes and Standards
350.2930 Preparation of Drawings and Specifications
350.2940 Site
350.2950 Administration and Public Areas
350.2960 Nursing Unit
350.2970 Living, Dining, Activities Rooms
350.2980 Treatment and Personal Care

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

350.2990 Service Departments
350.3000 General Building Requirements
350.3010 Structural
350.3020 Mechanical Systems
350.3030 Plumbing Systems
350.3040 Electrical Requirements

SUBPART O: RESIDENT'S RIGHTS

Section
350.3210 General
350.3220 Medical and Personal Care Program
350.3230 Restraints
350.3240 Abuse and Neglect
350.3250 Communication and Visitation
350.3260 Resident's Funds
350.3270 Residents' Advisory Council
350.3280 Contract With Facility
350.3290 Private Right of Action
350.3300 Transfer or Discharge
350.3310 Complaint Procedures
350.3320 Confidentiality
350.3330 Facility Implementation

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS

Section
350.3710 Applicability of Other Provisions of this Part
350.3720 Administration
350.3730 Admission and Discharge Policies
350.3740 Personnel
350.3750 Consultation Services and Nursing Services
350.3760 Medication Policies
350.3770 Food Services
350.3780 Codes and Standards
350.3790 Administration and Public Areas
350.3800 Bedrooms
350.3810 Nurses Station
350.3820 Bath and Toilet Rooms
350.3830 Utility Rooms
350.3840 Living, Dining, Activity Rooms
350.3850 Therapy and Personal Care
350.3860 Kitchen
350.3870 Laundry Room
350.3880 General Building Requirements
350.3890 Corridors
350.3900 Special Care Room

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

350.3910 Exit Facilities and Subdivision of Floor Areas
350.3920 Stairways, Vertical Openings and Doorways
350.3930 Hazardous Areas and Combustible Storage
350.3940 Mechanical Systems
350.3950 Heating, Cooling, and Ventilating Systems
350.3960 Plumbing Systems
350.3970 Electrical Systems
350.3980 Fire Alarm and Detection System
350.3990 Emergency Electrical System
350.4000 Fire Protection
350.4010 Construction Types
350.4020 Equivalencies
350.4030 New Construction Requirements

SUBPART Q: DAY CARE PROGRAMS

Section
350.4210 Day Care in Long-Term Care Facilities

APPENDIX A Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
APPENDIX B Federal Requirements Regarding Residents' Rights
APPENDIX C Seismic Zone Map
APPENDIX D Forms for Day Care in Long-Term Care Facilities
TABLE A Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled
TABLE B Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled
TABLE C Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled
TABLE D Food Service Sanitation Rules and Regulations, 77 Ill. Adm. Code 750, 1983 Applicable for New Intermediate Care Facilities for the Developmentally Disabled at Sixteen (16) Beds or Less
TABLE E Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less
TABLE F Disaster Preparedness Parameters - Relative Humidity and Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17 Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16153, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19517, effective November 4, 1993; amended at 17 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 18 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995; emergency amendment at 20 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 512, effective JAN 01 1996.

SUBPART C: POLICIES

Section 350.680 Developmental Disabilities Aides

a) *A facility shall not employ an individual as a nurse aide* or a developmental disabilities aide *unless the facility has inquired of the Department as to information in the registry concerning the individual.* (Section 3-206.01 of the Act) The Department shall advise the inquirer if the individual is on the Registry, if the

individual has findings of abuse, neglect or misappropriation of property in accordance with Sections 3-206.01 and 3-206.02 of the Act, and if the individual has a current background check. (See Section 350.681 of this Part.)

b)~~a~~ Each of the facility's developmental disabilities aides shall comply with one of the following conditions no later than 45 days after the date of initial employment.

1) Provide documentation of registration on the Department's Nurse Aide Registry.

2) Enroll in a ~~120-hour~~ Department approved developmental disabilities aide training program (77 Ill. Adm. Code 395). The program ~~coursework~~ shall be successfully completed no later than 120 days after the date of initial employment. Programs approved in accordance with 77 Ill. Adm. Code 395.150(a)(2) may last longer than 120 days. However, a developmental disabilities aide ~~nursing-assistant~~ may be employed no more than 120 days prior to the successful completion of the program ~~coursework-and-the competency-evaluations~~.

3) Submit documentation in accordance with Section 350.683 of this Part in order to be registered on the Nurse Aide Registry. ~~Provide-documentation-of-current-registration-from-another--state as-a-developmental-disabilities-aide.~~

~~4) Provide-documentation-of-successful-completion-of-a-developmental disabilities--aide--training--course-approved-by-another-state-as evidenced--by--a--diploma,--certification,---or---other---written verification--from-the-school.-The-documentation-must-demonstrate that-the-course-is-equivalent-to,-or-exceeds,-the-requirements-of the-Department's-rules-governing--long-term--care--assistant--and aide-training-programs-(77-Ill.-Adm.-Code-395).~~

~~5) Provide--documentation--of--successful--completion--of-the-Mental Health-Technician-Training-Program-conducted-by-the-Department-of Mental-Health-and-Developmental-Disabilities.~~

c)~~b~~ Each person employed by the facility as a developmental disabilities aide shall meet each of the following requirements:

1) *Be at least 16 years of age, of temperate habits and good moral character, honest, reliable and trustworthy.* (Section 3-206(a)(1) of the Act)

2) *Be able to speak and understand the English language or a language understood by a substantial percentage of the facility's residents.* (Section 3-206(a)(2) of the Act)

3) *Provide evidence of prior employment or occupation, if any, and residence for two years prior to present ~~initial~~ employment as a nursing assistant.* (Section 3-206(a)(3) of the Act)

4) *Have completed at least eight years of grade school or provide proof of equivalent knowledge.* (Section 3-206(a)(4) of the Act)

d)~~c~~ *The facility shall certify that each* developmental disabilities aide ~~*developmental--disabilities--aide*~~ *employed by the facility meets the requirements* of this Section. Such certification shall be retained by

the facility as part of the employee's personnel record. (Section 3-206(d) and (e) of the Act)

e)~~d~~ During inspections of the facility, the Department may require developmental disabilities aides to demonstrate competency in the principles, techniques, and procedures covered by the developmental disabilities aide training program curriculum described in the rules governing training programs for developmental disabilities ~~nursing assistants and~~ aides (see 77 Ill. Adm. Code 395.310), when possible problems in the care provided by developmental disabilities aides or other evidences of inadequate training are observed. Failure to demonstrate competency of the principles, techniques and procedures shall result in the provision of in-service training to the individual by the facility. The in-service training shall address the developmental disabilities aide training principles and techniques relative to the procedures in which the developmental disabilities aides are found to be deficient during inspection (see 77 Ill. Adm. Code 395).

~~e) A--facility--which--conducts--a--recognized---training---program---for developmental--disabilities--aides--shall--comply--with-the-applicable provisions-of-the-Department's-rules-governing-training--programs--for nursing-assistants-and-aides-(see-77-Ill.-Adm.-Code-395.200).~~

~~f) *A--facility--shall-not-employ-an-individual-as-a-nurse-aide-unless-the facility-has-inquired-of-the--Department--as--to--information--in--the registry--concerning--the-individual,* e.g., finding-of-abuse, neglect, or-misappropriated-resident-property.--(Section-3-206.01-of-the-Act)~~

~~g) A-facility-*shall-not-employ-anyone-not--on--the--registry--unless--the individual--is--enrolled--in--a--training--program*--in-accordance-with subsection-(a)(2)-of-this-Section.---(Section-3-206.1-of-the-Act)~~

(Source: Emergency amendment at 20 Ill. Reg. 512, effective January 1, 1996, for a maximum of 150 days)

Section 350.681 Health Care Worker Background Check
EMERGENCY

a) The facility shall not *knowingly hire any individual* after January 1, 1996 *in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of* the following *offenses* (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5]);

2) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961);

3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961);

4) Assault, battery or infliction of great bodily harm (Sections

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961);

5) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-15, and 12-16 of the Criminal Code of 1961);

6) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961);

7) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961);

8) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1, and 19-3 of the Criminal Code of 1961);

9) Criminal trespass (Section 19-4 of the Criminal Code of 1961);

10) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961);

11) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961);

12) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, and 9]); or

13) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1]).

b) The facility shall not *knowingly employ or retain any individual* after January 1, 1997 *in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the offenses* listed in subsections (a)(1)-(13) of this Section *unless the applicant, employee* or employer *obtains a waiver pursuant to* subsections (i) and (j) of this Section. (Section 25 of the Health Care Worker Background Check Act)

c) For the purpose of this Section:

1) *"Applicant"* means *an individual seeking employment with a facility who has received a bona fide conditional offer of employment.*

2) *"Conditional offer of employment"* means *a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses* listed in subsections (a)(1)-(13) of this Section.

3) *"Direct care"* means *the provision of nursing or personal care.* (Section 15 of the Health Care Worker Background Check Act)

d) *Beginning January 1, 1996* when the facility *makes a conditional offer of employment to an applicant* who is not exempt under subsection (1) of this Section *for a position with duties that involve direct care for residents,* the employer shall inquire of the nurse aide registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) Criminal History Record Check. If a UCIA Criminal History Record Check has not been conducted within the last year, the facility

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

must initiate a UCIA Criminal History Record Check for that applicant. (Section 30 of the Health Care Worker Background Check Act)

e) *No later than January 1, 1997 A* facility *must initiate a UCIA Criminal History Record Check for all employees* who were hired before January 1, 1996, who have not already had a UCIA Criminal History Record Check, and who are not exempt because of subsection (1) of this Section *with duties that involve direct care for residents.* (Section 30 of the Health Care Worker Background Check Act)

f) *The request for a UCIA Criminal History Record Check shall be* made *as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint UCIA* Criminal History Record *search is made:*

1) *That the* facility *shall request a UCIA Criminal History Record Check pursuant to* the Health Care Worker Background Check *Act.*

2) *That the applicant or employee has a right to obtain a copy of the Criminal Records Report, challenge the accuracy and completeness of the report, and request a waiver* in accordance with subsection (i) of this Section.

3) *That the applicant, if hired conditionally, may be terminated if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's identify is validated and it is determined that the* applicant or employee *does not have a disqualifying Criminal History Record based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section.

4) *That the applicant, if not hired conditionally, shall not be hired if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's record is cleared based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section.

5) *That the employee may be terminated if the Criminal Records Report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's record is cleared based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section. (Section 30 of the Health Care Worker Background Check Act)

g) A facility *may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA Criminal History Record Check.* (Section 30 of the Health Care Worker Background Check Act)

h) *An applicant or employee whose UCIA Criminal History Record Check*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section *may request the* facility to *commence a fingerprint-based UCIA Criminal Records Check by submitting information in a form and manner prescribed by the Department of State Police.* (Section 35 of the Health Care Worker Background Check Act)

i) *An applicant, employee* or employer *may request a waiver* to subsection (a) or (b) of this Section by submitting the following *within 30 days after the receipt of the Criminal Records Report:*
   1) *Information necessary to initiate a fingerprint-based UCIA Criminal Records Check in a form and manner prescribed by the Department of State Police* (Section 40 of the Health Care Worker Background Check Act); and
   2) A certified check or money order made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA Criminal Records Check.

j) The Department *may grant a waiver based on mitigating circumstances, which may include:*
   1) *The age at which the crime was committed;*
   2) *The circumstances surrounding the crime;*
   3) *The length of time since the conviction;*
   4) *The applicant's or employee's criminal history since the conviction;*
   5) *The applicant's or employee's work history;*
   6) *The applicant's or employee's current employment references;*
   7) *The applicant's or employee's character references; and*
   8) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents.* (Section 40 of the Health Care Worker Background Check Act)

k) A facility *is not obligated to employ or offer permanent employment to an applicant, or retain an employee who is granted a waiver.* (Section 40(d) of the Health Care Worker Background Check Act)

l) This Section *shall not apply to:*
   1) *An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law; or*
   2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State.* (Section 20 of the Health Care Worker Background Check Act)

m) *The* facility *must send a copy of the results of the UCIA* Criminal History Record Check to the *State Nurse Aide Registry.* (Section 30(b) of the Act)

n) *The* facility *shall retain on file for a period of 5 years records of criminal records requests for all employees, other than nurse aides. The file shall be subject to inspection by the* Department. *A fine of*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

$500 shall *be imposed for failure to maintain these records.* (Section 50 of the Health Care Worker Background Check Act)

(Source: Emergency added at 20 Ill. Reg. 2, effective January 1, 1996, for a maximum of 150 days)

Section 350.683 Registry of Developmental Disabilities Aides
EMERGENCY

a) An individual will be placed on the Nurse Aide Registry when he/she has successfully completed a training program approved in accordance with the Long-Term Care Assistants and Aides Training Program Code (77 Ill. Adm. Code 395) and has met background check information required in Section 350.681 of this Part, and when there are no findings of abuse, neglect or misappropriation of the property in accordance with Sections 3-206.01 and 3-206.02 of the Act.

b) An individual will be placed on the Nurse Aide Registry if he/she has met background check information required in Section 350.681 of this Part and submits documentation supporting one of the following equivalencies:
   1) Documentation of current registration from another state as a developmental disabilities aide.
   2) Documentation of successful completion of a developmental disabilities aide training course approved by another state as evidenced by a diploma, certification, or other written verification from the school. The documentation must demonstrate that the course is equivalent to, or exceeds, the requirements for developmental disability aides in the Department's rules governing long-term care assistant and aide training programs (77 Ill. Adm. Code 395).
   3) Documentation of successful completion of a Mental Health Technician Training Program conducted by the Department of Mental Health and Developmental Disabilities.

(Source: Emergency added at 20 Ill. Reg. 2, effective January 1, 1996, for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Long-Term Care Assistants and Aides Training Programs Code

2) Code Citation: 77 Ill. Adm. Code 395

3)

Section Numbers:	Adopted Action:
395.170	Amendments
395.173	New Section
395.174	New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective Date of Emergency Amendments: January 1, 1996

6) If this emergency rules is to expire before the end of the 150 day period, please specify the date on which it is to expire: This emergency will not expire before the end of the 150 day period.

7) Date Filed in Agency's Principal Office: January 1, 1996

8) Reason for Emergency: The Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995) established requirements for the Uniform Conviction Information Act (UCIA) criminal history record checks for certain health care workers. The Act applies to all individuals employed or retained by a health care employer as home health care aides, nurse aides, personal care assistants, private duty nurse aides, student nurses, day training personnel or any similar health-related occupation. Health care employers include community living facilities, life care facilities, long-term care facilities, home health agencies, full hospices, hospitals, community residential alternatives, nurse agencies, respite care providers, certified day training programs, and community integrated living arrangements. Individuals who are licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State or who are employed or retained by a health care employer for whom a criminal background check is required by another law of this State are exempt from the Act.

Beginning January 1, 1996, the Department of Public Health or its designee that tests nurse aides must request a UCIA criminal history records check for each nurse aide applying for inclusion on the State nurse aide registry. Also beginning January 1, 1996, a health care employer who makes a conditional offer of employment to an applicant other than a nurse aide for a position with duties that involve direct care for clients, patients, or residents must initiate a UCIA criminal history record check for that applicant. Criminal history record checks for all other nonlicensed direct care employees must be initiated no later than January 1, 1997. After January 1, 1996, or January 1, 1997, as applicable, health care employers are prohibited from hiring, employing, or retaining any

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

individual in a direct care position who has been convicted of commiting or attempting to commit one or more of the offenses listed in the Act.

Enactment of P.A. 89-197 has an impact on many of the Department's regulatory programs, requiring amendments to ten Parts (77 Ill. Adm. Code 300, 330, 340, 350, 370, 390, 245, 250, 280, and 395). To enforce the law uniformly, the Department determined that all of the rule changes should be adopted at once; however, the rule changes are required by law to be reviewed by each program's respective licensing or advisory board, which meets quarterly. The rule changes were presented to the State Board of Health on September 14, 1995 (Parts 280 and 370); to the Home Health Advisory Council on October 25, 1995 (Part 245); to the Hospital Licensing Board on November 15, 1995 (Part 250); and to the Long-Term Care Facility Advisory Board on November 15, 1995 (Parts 300, 330, 340, 350, 390, and 395). Background checks under P.A. 89-197 are required to begin on January 1, 1996. Implementation of the Act will help to protect the health, safety and welfare of recipients of health care services through a variety of providers throughout the State. Thousands of health care workers are affected by this legislation, which will prohibit persons who have been convicted of serious crimes from employment in positions involving direct care of patients or residents. The Department is mandated to begin implementing the Act on January 1, 1996. Therefore, the Department believes that emergency rulemaking is necessary to meet the time frames imposed by the Act.

9) A Complete Description of the Subjects and Issues Involved: The rules in Part 395 establish requirements for the approval of long-term care assistants training programs. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 395.170 defines program operation. Subsection (a) requires that potential students be counseled on the requirements of the Health Care Worker Background Check Act [225 ILCS 46]. According to subsection (d), the manual skills evaluation applies only to individuals enrolled in an approved Basic Nursing Assistant Training Program; and an approved evaluator who is not an approved instructor must meet the requirements of Section 395.160 of this Part.

Section 395.173 defines the successful completion of a Basic Nursing Assistant Training Program as completing the theory in subsection(a) and class clinical instruction; and demonstrating manual skills competence; and in subsection (b) passing the competency test.

Section 395.174 defines the successful completion of a Developmental Disabilities Aide or Child Care/Habilitation Aide Training Program as completing the theory and clinical instruction and any tests/quizzes/exams required by the program.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objectives: This rulemaking will not expand or establish a State Mandate.

12) Information and Questions regarding these amendments shall be directed to:

Ms. Gail Devito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson Street, Fifth Floor
Springfield, IL 62761
(217)782-6187

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 395
LONG-TERM CARE ASSISTANTS AND AIDES TRAINING PROGRAMS CODE

SUBPART A: PROGRAM APPLICATION AND APPROVAL PROCESS

Section
395.100 Program Sponsor
395.110 Application for Initial Program Approval
395.120 Application Review Process
395.130 Renewal of Program Approval
395.140 Inactive Status
395.150 Timeframe Requirements
395.160 Instructor Requirements
395.170 Basic Nursing Assistant Training Program Operation Requirements
EMERGENCY
395.173 Successful Completion of the Basic Nursing Assistant Training Program
EMERGENCY
395.174 Successful Completion of the Developmental Disabilities Aide or Basic Child Care/Habilitation Aide Training Program
EMERGENCY
395.175 Program Notification Requirements
395.180 Department Monitoring
395.190 Denial, Suspension, and Revocation of Program Approval
395.200 Other Programs Conducted by Facilities (Repealed)

SUBPART B: TRAINING PROGRAM CURRICULA REQUIREMENTS

Section
395.300 Basic Nursing Assistant Training Program
395.310 Developmental Disabilities Aide Training Program
395.320 Basic Child Care/Habilitation Aide Training Program

SUBPART C: PROFICIENCY EXAMINATION

Section
395.400 Proficiency Examination

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [20 ILCS 45].

SOURCE: Adopted at 13 Ill. Reg. 19474, effective December 1, 1989; amended at 17 Ill. Reg. 2984, effective February 22, 1993; emergency amendments at 20 Ill. Reg. 525, effective January 1, 1996, for a maximum of 150 days.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

SUBPART A: PROGRAM APPLICATION AND APPROVAL PROCESS

Section 395.170 Basic Nursing Assistant Training Program Operation Requirements
EMERGENCY

a) The program shall provide counseling to all individuals seeking admission to the program concerning the Health Care Worker Background Check Act [225 ILCS 46]. The counseling must include, at a minimum, a clear statement that a UCIA Criminal Background Check is required for the individual to work as a nursing assistant, developmental disabilities aide, or basic child care/habilitation aide in Illinois; and a listing of those Sections of the Criminal Code of 1961 [720 ILCS 5], the Cannabis Control Act [720 ILCS 550], and the Illinois Controlled Substances Act [720 ILCS 570] for which a conviction would disqualify the individual from finding employment as a nursing assistant.

b)~~a)~~ Ten working days prior to the start of the actual training program, an updated master schedule shall be submitted to the Department.

c)~~b)~~ Any change in program content, objectives, or instructors shall be submitted to the Department at least thirty days prior to program delivery.

d)~~c)~~ The program shall require each student to show competency of Department approved manual skills by hands-on return demonstration, as well as the successful completion of a written examination encompassing theory and skills taught. The manual skills competency evaluation shall be conducted by an approved evaluator. Approved evaluators employed by a facility may not evaluate students trained by the facility program.

(Source: Emergency amendment at 20 Ill. Reg. 528, effective January 1, 1996, for a maximum of 150 days)

Section 395.173 Successful Completion of the Basic Nursing Assistant Training Program
EMERGENCY

a) A student shall be considered to have successfully completed the training program when all of the following are met: The student has
   1) completed at least 80 hours of theory and 40 hours of clinical instruction;
   2) demonstrated competence in the Department-approved manual skills.

b) A student must pass the Department established competency test.

(Source: Emergency amendment at 20 Ill. Reg. 529, effective January 1, 1996, for a maximum of 150 days)

Section 395.174 Successful Completion of the Developmental Disabilities Aide

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

or Basic Child Care/Habilitation Aide Training Program
EMERGENCY

A student shall be considered to have successfully completed the training program when the student has completed the theory and clinical instruction and tests/quizzes/exams in accordance with the sponsor's policies.

(Source: Emergency amendment at 20 Ill. Reg. 530, effective January 1, 1996, for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code

2) Code Citation: 77 Ill. Adm. Code 390

3) Section Numbers: Adopted Action:

390.680	Amendments
390.681	New Section
390.683	New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective Date of Emergency Amendments: January 1, 1996

6) If this emergency rules is to expire before the end of the 150 day period, please specify the date on which it is to expire: This emergency will not expire before the end of the 150 day period.

7) Date Filed in Agency's Principal Office: January 1, 1996

8) Reason for Emergency: The Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995) established requirements for the Uniform Conviction Information Act (UCIA) criminal history record checks for certain health care workers. The Act applies to all individuals employed or retained by a health care employer as home health care aides, nurse aides, personal care assistants, private duty nurse aides, student nurses, day training personnel or any similar health-related occupation. Health care employers include community living facilities, life care facilities, long-term care facilities, home health agencies, full hospices, hospitals, community residential alternatives, nurse agencies, respite care providers, certified day training programs, and community integrated living arrangements. Individuals who are licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State or who are employed or retained by a health care employer for whom a criminal background check is required by another law of this State are exempt from the Act.

Beginning January 1, 1996, the Department of Public Health or its designee that tests nurse aides must request a UCIA criminal history records check for each nurse aide applying for inclusion on the State nurse aide registry. Also beginning January 1, 1996, a health care employer who makes a conditional offer of employment to an applicant other than a nurse aide for a position with duties that involve direct care for clients, patients, or residents must initiate a UCIA criminal history record check for that applicant. Criminal history record checks for all other nonlicensed direct care employees must be initiated no later than January 1, 1997. After January 1, 1996, or January 1, 1997, as applicable, health care employers are prohibited from hiring, employing, or retaining any

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

individual in a direct care position who has been convicted of commiting or attempting to commit one or more of the offenses listed in the Act.

The Act includes a provision whereby a waiver of the employment prohibition may be requested by submitting certain information to the entity responsible for inspecting, licensing, certifying or registering the health care employer within 30 days after receipt of the criminal records report.

Health care employers are required to retain on file, for a period of five years, records of criminal records requests for all employees covered under the Act, other than nurse aides. The Department of Public Health is required to include in its nurse aide registry the date of a nurse aide's last criminal records check and information concerning disqualification pursuant to the Act.

Enactment of P.A. 89-197 has an impact on many of the Department's regulatory programs, requiring amendments to ten Parts (77 Ill. Adm. Code 300, 330, 340, 350, 370, 390, 245, 250, 280, and 395). To enforce the law uniformly, the Department determined that all of the rule changes should be adopted at once; however, the rule changes are required by law to be reviewed by each program's respective licensing or advisory board, which meets quarterly. The rule changes were presented to the State Board of Health on September 14, 1995 (Parts 280 and 370); to the Home Health Advisory Council on October 25, 1995 (Part 245); to the Hospital Licensing Board on November 15, 1995 (Part 250); and to the Long-Term Care Facility Advisory Board on November 15, 1995 (Parts 300, 330, 340, 350, 390, and 395). Background checks under P.A. 89-197 are required to begin on January 1, 1996. Implementation of the Act will help to protect the health, safety and welfare of recipients of health care services through a variety of providers throughout the State. Thousands of health care workers are affected by this legislation, which will prohibit persons who have been convicted of serious crimes from employment in positions involving direct care of patients or residents. The Department is mandated to begin implementing the Act on January 1, 1996. Therefore, the Department believes that emergency rulemaking is necessary to meet the time frames imposed by the Act.

9) A Complete Description of the Subjects and Issues Involved: The rules in Part 390 establish requirements for the licensure of long-term care facilities for persons under age 22. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 390.680 is amended to include new requirements for nursing assistants, child care habilitation aides, and developmental disabilities aides under the Health Care Worker Background Check Act. Facilities are required to contact the Department's nurse aide registry to find out

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

whether the individual has a current background check. Provisions concerning placement of a nursing assistant or aide on the Registry are deleted, since a new Section 390.683 is being added to specify and clarify Registry requirements.

Section 390.681 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," and "direct care," as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care for residents. Facilities are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (l). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Facilities are not obligated to employ applicants who are granted waivers (subsection (k)). Subsection (m) requires facilities to send a copy of the results of the background check to the State nurse aide registry. Requirements for retention of records are set forth in subsection (n).

Section 390.683 is added to set forth requirements for registry of child care habilitation aides, which are expanded under P.A. 89-197.

10) Are there any proposed amendments to this Part pending? Yes

Section	Proposed Action	Illinois Register Citation
390.330	Amendments	19 Ill. Reg. 14607
390.1040	Amendments	19 Ill. Reg. 14607
390.1310	Amendments	19 Ill. Reg. 14607
390.1312	New Section	19 Ill. Reg. 14607
390.1314	New Section	19 Ill. Reg. 14607
390.1316	New Section	19 Ill. Reg. 14607

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

390.1320	Amendments	19 Ill. Reg. 14607
390.1330	Repealer	19 Ill. Reg. 14607
390.1420	Amendments	19 Ill. Reg. 14607
Appendix C	New Section	19 Ill. Reg. 14607

11) Statement of Statewide Policy Objectives: This rulemaking will affect county nursing homes.

12) Information and Questions regarding these amendments shall be directed to:

Ms. Gail Devito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson Street, Fifth Floor
Springfield, IL 62761
(217)782-6187

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 390
LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section
390.110 General Requirements
390.120 Application for License
390.130 Licensee
390.140 Issuance of an Initial License for a New Facility
390.150 Issuance of an Initial License Due to a Change of Ownership
390.160 Issuance of a Renewal License
390.165 Criteria for Adverse Licensure Actions
390.170 Denial of Initial License
390.175 Denial of Renewal of License
390.180 Revocation of License
390.190 Experimental Program Conflicting With Requirements
390.200 Inspections, Surveys, Evaluations and Consultation
390.210 Filing an Annual Attested Financial Statement
390.220 Information to be Made Available to the Public by the Department
390.230 Information to Be Made Available to the Public By the Licensee
390.240 Municipal Licensing
390.250 Ownership Disclosure
390.260 Issuance of Conditional Licenses
390.270 Monitor and Receivership
390.271 Presentation of Findings
390.272 Determination to Issue a Notice of Violation or Administrative Warning
390.274 Determination of the Level of a Violation
390.276 Notice of Violation
390.277 Administrative Warning
390.278 Plans of Correction
390.280 Reports of Correction
390.282 Conditions for Assessment of Penalties
390.284 Calculation of Penalties
390.286 Determination to Assess Penalties
390.288 Reduction or Waiver of Penalties
390.290 Quarterly List of Violators
390.300 Alcoholism Treatment Programs in Long-Term Care Facilities
390.310 Department May Survey Facilities Formerly Licensed
390.320 Waivers
390.330 Definitions
390.340 Incorporated and Referenced Materials

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

SUBPART B: ADMINISTRATION

Section
390.500 Administrator

SUBPART C: POLICIES

Section
390.610 Management Policies
390.620 Resident Care Policies
390.630 Admission and Discharge Policies
390.640 Contract Between Resident and Facility
390.650 Residents' Advisory Council
390.660 General Policies
390.670 Personnel Policies
390.675 Initial Health Evaluation for Employees
390.680 Child Care/Habilitation Aides
EMERGENCY
390.681 Health Care Worker Background Check
EMERGENCY
390.683 Registry of Child Care/Habilitation Aides
EMERGENCY
390.685 Student Interns
390.690 Disaster Preparedness
390.700 Serious Incidents and Accidents

SUBPART D: PERSONNEL

Section
390.810 General
390.820 Categories of Personnel
390.830 Consultation Services

SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

Section
390.1010 Service Programs
390.1020 Medical Services
390.1025 Life-Sustaining Treatments
390.1030 Physician Services
390.1035 Tuberculin Skin Test Procedures
390.1040 Nursing Services
390.1050 Dental Care Services
390.1060 Physical and Occupational Therapy Services
390.1070 Psychological Services
390.1080 Social Services
390.1090 Speech Pathology and Audiology Services
390.1100 Recreational and Activity Services

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

390.1110 Educational Services
390.1120 Work Activity and Prevocational Training Services

SUBPART F: RESTRAINTS AND SAFETY DEVICES, BEHAVIOR MANAGEMENT, AND BEHAVIOR EMERGENCIES

Section
390.1310 Restraints and Safety Devices
390.1320 Behavior Management
390.1330 Behavior Emergencies

SUBPART G: MEDICATIONS

Section
390.1410 Medication Policies and Procedures
390.1420 Conformance with Physician's Orders
390.1430 Administration of Medication
390.1440 Labeling and Storage of Medications
390.1450 Control of Narcotics and Legend Drugs

SUBPART H: RESIDENT AND FACILITY RECORDS

Section
390.1610 Resident Record Requirements
390.1620 Content of Medical Records
390.1630 Confidentiality of Resident's Records
390.1640 Records Pertaining to Residents' Property
390.1650 Retention and Transfer of Resident Records
390.1660 Other Resident Record Requirements
390.1670 Staff Responsibility for Medical Records
390.1680 Retention of Facility Records
390.1690 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section
390.1810 Director of Food Services
390.1820 Dietary Staff in Addition to Director of Food Services
390.1830 Hygiene of Dietary Staff
390.1840 Diet Orders
390.1850 Adequacy of Diet and Meal Pattern
390.1860 Infant and Therapeutic Diets
390.1870 Scheduling Meals
390.1880 Menu Planning
390.1890 Food Preparation and Service
390.1900 Preparation of Infant Formula
390.1910 Food Handling Sanitation
390.1920 Kitchen Equipment, Utensils, and Supplies

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

SUBPART J: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

Section
390.2010 Maintenance
390.2020 Housekeeping
390.2030 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
390.2210 Furnishings
390.2220 Equipment and Supplies
390.2230 Sterilization of Supplies and Equipment

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section
390.2410 Codes
390.2420 Water Supply
390.2430 Sewage Disposal
390.2440 Plumbing

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

Section
390.2610 Applicability of these Standards
390.2620 Codes and Standards
390.2630 Preparation of Drawings and Specifications
390.2640 Site
390.2650 Administration and Public Areas
390.2660 Nursing Unit
390.2670 Dining, Play, Activity/Program Rooms
390.2680 Therapy and Personal Care
390.2690 Service Departments
390.2700 General Building Requirements
390.2710 Structural
390.2720 Mechanical Systems
390.2730 Plumbing Systems
390.2740 Electrical Systems

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING FACILITIES

Section
390.2910 Applicability
390.2920 Codes and Standards
390.2930 Preparation of Drawings and Specifications
390.2940 Site
390.2950 Administration and Public Areas

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

390.2960 Nursing Unit
390.2970 Play, Dining, Activity/Program Rooms
390.2980 Treatment and Personal Care
390.2990 Service Department
390.3000 General Building Requirements
390.3010 Structural
390.3020 Mechanical Systems
390.3030 Plumbing Systems
390.3040 Electrical Requirements

SUBPART O: RESIDENT'S RIGHTS

Section
390.3210 General
390.3220 Medical and Personal Care Program
390.3230 Restraints
390.3240 Abuse and Neglect
390.3250 Communication and Visitation
390.3260 Resident's Funds
390.3270 Residents' Advisory Council
390.3280 Contract With Facility
390.3290 Private Right of Action
390.3300 Transfer or Discharge
390.3310 Complaint Procedures
390.3320 Confidentiality
390.3330 Facility Implementation

SUBPART P: DAY CARE PROGRAMS

Section
390.3510 Day Care in Long-Term Care Facilities

APPENDIX A Interpretation and Illustrative Services for Long-Term Care Facility for Residents Under 22 Years of Age
APPENDIX B Forms for Day Care In Long-Term Care Facilities
TABLE A Infant Feeding
TABLE B Daily Nutritional Requirements By Age Group
TABLE C Sound Transmissions Limitations
TABLE D Pressure Relationships and Ventilation Rates of Certain Areas for New Long-Term Care Facilities for Persons Under Twenty-Two (22) Years of Age
TABLE E Sprinkler Requirements
TABLE F Disaster Preparedness Parameters - Relative Humidity and Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

SOURCE: Adopted at 6 Ill. Reg. 1658, effective February 1, 1982; emergency amendment at 6 Ill. Reg. 3223, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11622, effective September 14, 1982; amended at 6 Ill. Reg. 14557 and 14560, effective November 8, 1982; amended at 6 Ill. Reg. 14678, effective November 15, 1982; amended at 7 Ill. Reg. 282, effective December 22, 1982; amended at 7 Ill. Reg. 1927, effective January 28, 1983; amended at 7 Ill. Reg. 8574, effective July 11, 1983; amended at 7 Ill. Reg. 15821, effective November 15, 1983; amended at 7 Ill. Reg. 16988, effective December 14, 1983; amended at 8 Ill. Reg. 15585, 15589, and 15592, effective August 15, 1984; amended at 8 Ill. Reg. 16989, effective September 5, 1984; codified at 8 Ill. Reg. 19823; amended at 8 Ill. Reg. 24159, effective November 29, 1984; amended at 8 Ill. Reg. 24656, effective December 7, 1984; amended at 8 Ill. Reg. 25083, effective December 14, 1984; amended at 9 Ill. Reg. 122, effective December 26, 1984; amended at 9 Ill. Reg. 10785, effective July 1, 1985; amended at 11 Ill. Reg. 16782, effective October 1, 1987; amended at 12 Ill. Reg. 931, effective December 24, 1987; amended at 12 Ill. Reg. 16780, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18243, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6301, effective April 17, 1989; amended at 13 Ill. Reg. 19521, effective December 1, 1989; amended at 14 Ill. Reg. 14904, effective October 1, 1990; amended at 15 Ill. Reg. 1878, effective January 25, 1991; amended at 16 Ill. Reg. 623, effective January 1, 1992; amended at 16 Ill. Reg. 14329, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2390, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7974, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15073, effective September 3, 1993; amended at 17 Ill. Reg. 16167, effective January 1, 1994; amended at 17 Ill. Reg. 19235, effective October 26, 1993; amended at 17 Ill. Reg. 19547, effective November 4, 1993; amended at 17 Ill. Reg. 21031, effective November 20, 1993; amended at 18 Ill. Reg. 1453, effective January 14, 1994; amended at 18 Ill. Reg. 15807, effective October 15, 1994; amended at 19 Ill. Reg. 11525, effective July 29, 1995; emergency amendment at 20 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days.

SUBPART C: POLICIES

Section 390.680 Child Care/Habilitation Aides
EMERGENCY

a) *A facility shall not employ an individual as a nurse aide* or child care/habilitation aide or developmental disabilities aide *unless the facility has inquired of the Department as to information in the registry concerning the individual.* (Section 3-206.01 of the Act) The Department shall advise the inquirer if the individual is on the Registry, if the individual has findings of abuse, neglect, or misappropriation of property in accordance with Sections 3-206.01 and 3-206.02 of the Act, and if the individual has a current background

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

check. (See Section 390.681 of this Part.)

b)~~a)~~ Each of the facility's child care/habilitation aides or developmental disabilities aides shall comply with one of the following conditions no later than 45 days after the date of initial employment.

1) Provide documentation of registration on the Department's Nurse Aide Registry.

2) Enroll in a child care/habilitation aide training program, in a developmental disabilities aide training program, or in a Department approved basic nursing assistant training program (see 77 Ill. Adm. Code 395). The program ~~coursework and the competency evaluations, both written and manual skills,~~ shall be successfully completed no later than 120 days after the date of initial employment. Programs approved in accordance with 77 Ill. Adm. Code 395.150(a)(2) may last longer than 120 days. However, a nursing assistant, child care/habilitation aide, or developmental disabilities aide may be employed no more than 120 days prior to the successful completion of the program ~~coursework and the competeney evaluations~~.

3) Submit documentation to the Department in accordance with Section 390.683 of this Part in order to be registered on the Nurse Aide Registry. ~~Provide documentation of current registration from another state indicating that the requirements of 42 CFR 483.151 483.154 have been met and that there are no documented findings of abuse, neglect, or misappropriation of property.~~

~~4) Provide documentation of successful completion of a child/habilitation aide training program approved by another state as evidenced by a diploma or certificate. The documentation must demonstrate that the course is equivalent to, or exceeds, the requirements of the Department's rules governing long term care assistant and aide training programs (see 77 Ill. Adm. Code 395).~~

~~5) Provide documentation of successful completion of a nursing arts course in an accredited nurse training program as evidenced by a diploma, certificate or other written verification from the school and successful completion of the written portion of the Department approved nursing assistant competeney evaluation.~~

c)~~b)~~ Each person employed by the facility as a child care/habilitation aide or a developmental disabilities aide shall meet each of the following requirements:

1) *Be at least sixteen years of age, of temperate habits and good moral character, honest, reliable and trustworthy.* (Section 3-206(a)(1) of the Act)

2) *Be able to speak and understand the English language or a language understood by a substantial percentage of the facility's residents.* (Section 3-206(a)(2) of the Act)

3) *Provide evidence of prior employment or occupation, if any, and residence for two years prior to present ~~initial~~ employment as a nursing assistant ~~child care/habilitation~~ aide.* (Section

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

3-206(a)(3) of the Act)

4) *Have completed at least eight years of grade school or provide proof of equivalent knowledge.* (Section 3-206(a)(4) of the Act)

d~~c~~) The ~~The~~ *facility shall certify to the Department that each* child care/habilitation aide or developmental disability aide employed by the facility ~~*child care/habilitation aide employed by the facility*~~ *meets the requirements of this Section* ~~of this Section~~. Such certification shall be retained by the facility as part of the employee's personnel record. (Section 3-206(c) ~~(d) and (e)~~ of the Act)

e~~d~~) During inspections of the facility, the Department may require nursing assistants to demonstrate competency in the principles, techniques, and procedures covered by the child care/habilitation aide or developmental disabilities training program curriculum described in the rules governing training programs for child care/habilitation aides or developmental disabilities ~~nursing assistants and~~ aides (see 77 Ill. Adm. Code 395.310 and 395.320), when possible problems in the care provided by child care/habilitation aides or other evidences of inadequate training are observed. The State approved manual skills ~~competeney~~ evaluation testing format and forms will be used to determine competency of a child care/habilitation aide or developmental disabilities aide ~~nursing assistant~~ when appropriate. Failure to demonstrate competency of the principles, techniques and procedures shall result in the provision of in-service training to the individual by the facility. The in-service training shall address the child care/habilitation or developmental disabilities aides training principles and techniques relative to the procedures in which the ~~child care/habilitation~~ aides are found to be deficient during inspection (see 77 Ill. Adm. Code 395).

~~e) A facility which conducts a recognized training program for child care/habilitation aides shall comply with the applicable provisions of the Department's rules governing training programs for nursing assistants and aides (see 77 Ill. Adm. Code 395.200).~~

~~f) *A facility shall not employ an individual as a child care/habilitation aide unless the facility has inquired of the Department as to information in the registry concerning the individual,* e.g., finding of abuse, neglect, or misappropriated resident property. (Section 3-206.01 of the Act)~~

~~g) A facility *shall not employ anyone not on the registry unless the individual is enrolled in a training program* in accordance with subsection (a)(2) of this Section. (Section 3-206.01 of the Act)~~

(Source: Emergency amendment at 20 Ill. Reg. 535, effective January 1, 1996, for a maximum of 150 days)

Section 390.681 Health Care Worker Background Check
EMERGENCY

a) The facility shall not *knowingly hire any individual* after January 1,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

1996 *in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of* the following *offenses* (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5]);
2) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961);
3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961);
4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12- 4.6, and 12-4.7 of the Criminal Code of 1961);
5) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-15, and 12-16 of the Criminal Code of 1961);
6) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961);
7) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961);
8) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1, and 19-3 of the Criminal Code of 1961);
9) Criminal trespass (Section 19-4 of the Criminal Code of 1961);
10) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961);
11) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and and 24-1.2 of the Criminal Code of 1961);
12) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1 and 9]); or
13) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1 404, 405, 405.1, 407, and 407.1]).

b) The facility shall not *knowingly employ or retain any individual* after January 1, 1997 *in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the offenses* listed in subsections (a)(1)-(13) of this Section *unless the applicant, employee* or employer *obtains a waiver pursuant to* subsections (i) and (j) of this Section. (Section 25 of the Health Care Worker Background Check Act)

c) For the purpose of this Section:
   1) *"Applicant"* means *an individual seeking employment with a* facility *who has received a bona fide conditional offer of employment.*
   2) *"Conditional offer of employment"* means *a bond fide offer of employment by a* facility *to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses* listed in subsections (a)(1)-(13) of this Section.
   3) *"Direct Care"* means *the provision of nursing or personal care.* (Section 15 of the Health Care Worker Background Check Act)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

d) *Beginning January 1, 1996* when the facility *makes a conditional offer of employment to an applicant* who is not exempt under subsection (1) of this Section, *for a position with duties that involve direct care for residents,* the employer shall inquire of the nurse aide registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) Criminal History Record Check. If a UCIA Criminal History Record Check has not been conducted within the last year, the facility *must initiate a UCIA Criminal History Record Check for that applicant.* (Section 30 of the Health Care Worker Background Check Act)

e) *No later than January 1, 1997 a* facility *must initiate a UCIA Criminal History Record Check for all employees* who were hired before January 1, 1996, who have not already had a UCIA Criminal History Record Check, and who are not exempt because of subsection (1) of this Section *with duties that involve direct care for residents.* (Section 30 of the Health Care Worker Background Check Act)

f) *The request for a UCIA Criminal History Record Check shall be* made *as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint UCIA* Criminal History Record *search is made:*
   1) *That the* facility *shall request a UCIA Criminal History Record Check pursuant to* the Health Care Worker Background Check Act.
   2) *That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver* in accordance with subsection (i) of this Section.
   3) *That the applicant, if hired conditionally, may be terminated if the criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's identity is validated and it is determined that the* applicant or employee *does not have a disqualifying Criminal History Record based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section.
   4) *That the applicant, if not hired conditionally, shall not be hired if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's record is cleared based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section.
   5) *That the employee may be terminated if the Criminal Records*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section *unless the applicant's record is cleared based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section. (Section 30 of the Health Care Worker Background Check Act)

g) A facility *may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA Criminal History Record Check.* (Section 30 of the Health Care Worker Background Check Act)

h) *An applicant or employee whose UCIA Criminal History Record Check indicates a conviction for committing or attempting to commit one or more of the offenses* listed in subsections (a)(1)-(13) of this Section *may request the* facility to *commence a fingerprint-based UCIA Criminal Records Check by submitting information in a form and manner prescribed by the Department of State Police.* (Section 35 of the Health Care Worker Background Check Act)

i) *An applicant, employee* or employer *may request a waiver* to subsection (a) or (b) of this Section by submitting the following *within 30 days after the receipt of the Criminal Records Report:*

1) *Information necessary to initiate a fingerprint-based UCIA Criminal Records Check in a form and manner prescribed by the Department of State Police* (Section 40 of the Health Care Worker Background Check Act); and

2) A certified check or money order made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA Criminal Records Check.

j) The Department *may grant a waiver based on mitigating circumstances, which may include:*

1) *The age at which the crime was committed;*

2) *The circumstances surrounding the crime;*

3) *The length of time since the conviction;*

4) *The applicant's or employee's criminal history since the conviction;*

5) *The applicant's or employee's work history;*

6) *The applicant's or employee's current employment references;*

7) *The applicant's or employee's character references; and*

8) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents.* (Section 40 of the Health Care Worker Background Check Act)

k) A facility IS *not obligated to employ or offer permanent employment to an applicant, or retain an employee who is granted a waiver.* (Section 40(d) of the Health Care Worker Background Check Act)

l) This Section *shall not apply to:*

1) *An individual who is licensed by the Department of Professional Regulation of the Department of Public Health under another law; or*

2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State.* (Section 20 of the Health Care Worker Background Check Act)

m) *The* facility *must send a copy of the results of the* UCIA Criminal History *Record Check to the State Nurse Aide Registry.* (Section 30(b) of the Act)

n) *The* facility *shall retain on file for a period of 5 years records of criminal records requests for all employees, other than nurse aides. The file shall be subject to inspection by the* Department. *A fine of* $500 shall *be imposed for failure to maintain these records.* (Section 50 of the Health Care Worker Background Check Act)

(Source: Emergency amendment at 20 Ill. Reg. 535, effective January 1, 1996, for a maximum of 150 days)

Section 390.683 Registry of Child Care/Habilitation Aides
EMERGENCY

a) An individual will be placed on the Nurse Aide Registry when he/she has successfully completed a training program approved in accordance with the Long-Term Care Assistants and Aides Training Program Code (77 Ill. Adm. Code 395) and has met background check information required in Section 390.681 of this Part, and when there are no findings of abuse, neglect, or misappropriation of property in accordance with Sections 3-206.01 and 3-206.02 of the Act.

b) An individual shall be placed on the Nurse Aide Registry if he/she has met background check information required in Section 390.681 of this Part and submits documentation supporting one of the following equivalencies:

1) Documentation of current registration from another state indicating that the requirements of 42 CFR 483.151 - 483.154 (October 1, 1994, no further amendments or editions included) have been met and that there are no documented findings of abuse, neglect, or misappropriation of property.

2) Provide documentation of successful completion of a child care/habilitation aide training course approved by another state as evidenced by a diploma or certificate. The documentation must demonstrate that the course is equivalent to, or exceeds, the requirements for child care/habilitation aides in the Department's rules governing long-term care assistant and aide training programs (see 77 Ill. Adm. Code 395).

3) Documentation of successful completion of a nursing arts course with at least 40 hours of supervised clinical experience in an accredited nurse training program as evidenced by a diploma, certification or other written verification from the school.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

(Source: Emergency amendment at 20 Ill. Reg. 535, effective January 1, 1996, for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Sheltered Care Facilities Code

2) Code Citation: 77 Ill. Adm. Code 330

3)

Section Numbers:	Adopted Action:
330.910	Amendments
330.911	New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective Date of Emergency Amendments: January 1, 1996

6) If this emergency rules is to expire before the end of the 150 day period, please specify the date on which it is to expire: This emergency will not expire before the end of the 150 day period.

7) Date Filed in Agency's Principal Office: January 1, 1996

8) Reason for Emergency: The Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995) established requirements for the Uniform Conviction Information Act (UCIA) criminal history record checks for certain health care workers. The Act applies to all individuals employed or retained by a health care employer as home health care aides, nurse aides, personal care assistants, private duty nurse aides, student nurses, day training personnel or any similar health- related occupation. Health care employers include community living facilities, life care facilities, long-term care facilities, home health agencies, full hospices, hospitals, community residential alternatives, nurse agencies, respite care providers, certified day training programs, and community integrated living arrangements. Individuals who are licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State or who are employed or retained by a health care employer for whom a criminal background check is required by another law of this State are exempt from the Act.

Beginning January 1, 1996, the Department of Public Health or its designee that tests nurse aides must request a UCIA criminal history records check for each nurse aide applying for inclusion on the State nurse aide registry. Also beginning January 1, 1996, a health care employer who makes a conditional offer of employment to an applicant other than a nurse aide for a position with duties that involve direct care for clients, patients, or residents must initiate a UCIA criminal history record check for that applicant. Criminal history record checks for all other nonlicensed direct care employees must be initiated no later than January 1, 1997. After January 1, 1996, or January 1, 1997, as applicable, health care employers are prohibited from hiring, employing, or retaining any individual in a direct care position who has been convicted of commiting

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

or attempting to commit one or more of the offenses listed in the Act.

The Act includes a provision whereby a waiver of the employment prohibition may be requested by submitting certain information to the entity responsible for inspecting, licensing, certifying or registering the health care employer within 30 days after receipt of the criminal records report.

Health care employers are required to retain on file for a period of five years records of criminal records requests for all employees covered under the Act, other than nurse aides. The Department of Public Health is required to include in its nurse aide registry the date of a nurse aide's last criminal records check and information concerning disqualification pursuant to the Act.

Enactment of P.A. 89-197 has an impact on many of the Department's regulatory programs, requiring amendments to ten Parts (77 Ill. Adm. Code 300, 330, 340, 350, 370, 390, 245, 250, 280, and 395). To enforce the law uniformly, the Department determined that all of the rule changes should be adopted at once; however, the rule changes are required by law to be reviewed by each program's respective licensing or advisory board, which meets quarterly. The rule changes were presented to the State Board of Health on September 14, 1995 (Parts 280 and 370); to the Home Health Advisory Council on October 25, 1995 (Part 245); to the Hospital Licensing Board on November 15, 1995 (Part 250); and to the Long-Term Care Facility Advisory Board on November 15, 1995 (Parts 300, 330, 340, 350, 390, and 395). Background checks under P.A. 89-197 are required to begin on January 1, 1996. Implementation of the Act will help to protect the health, safety and welfare of recipients of health care services through a variety of providers throughout the State. Thousands of health care workers are affected by this legislation, which will prohibit persons who have been convicted of serious crimes from employment in positions involving direct care of patients or residents. The Department is mandated to begin implementing the Act on January 1, 1996. Therefore, the Department believes that emergency rulemaking is necessary to meet the time frames imposed by the Act.

9) A Complete Description of the Subjects and Issues Involved: The rules in Part 330 establish requirements for the licensure of sheltered care facilities in Illinois. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 330.910 is amended to include new requirements for nursing assistants under the Health Care Worker Background Check Act. Facilities are required to contact the Department's nurse aide registry to find out whether the individual has a current background check.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Section 330.911 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," and "direct care," as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care for residents. Facilities are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (l). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Facilities are not obligated to employ applicants who are granted waivers (subsection (k)). Subsection (m) requires facilities to send a copy of the results of the background check to the State nurse aide registry. Requirements for retention of records are set forth in subsection (n).

10) Are there any proposed amendments to this Part pending? Yes

Section	Proposed Action	Illinois Register Citation
330.330	Amendments	19 Ill. Reg. 14660
330.1140	Repealer	19 Ill. Reg. 14660
330.1145	New Section	19 Ill. Reg. 14660
330.1150	New Section	19 Ill. Reg. 14660
330.1155	New Section	19 Ill. Reg. 14660
Appendix E	New Section	19 Ill. Reg. 14660

11) Statement of Statewide Policy Objectives: This rulemaking will affect county nursing homes.

12) Information and Questions regarding these amendments shall be directed to:

Ms. Gail DeVito
Division of Governmental Affairs

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Illinois Department of Public Health
535 West Jefferson Street, Fifth Floor
Springfield, IL 62761
(217) 782-6187

The full text of the Emergency Amendments begins on the next page .

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 330
SHELTERED CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section

330.110 General Requirements
330.120 Application for License
330.130 Licensee
330.140 Issuance of an Initial License For a New Facility
330.150 Issuance of an Initial License Due to a Change of Ownership
330.160 Issuance of a Renewal License
330.165 Criteria for Adverse Licensure Actions
330.170 Denial of Initial License
330.175 Denial of Renewal of License
330.180 Revocation of License
330.190 Experimental Program Conflicting With Requirements
330.200 Inspections, Surveys, Evaluations and Consultation
330.210 Filing an Annual Attested Financial Statement
330.220 Information to be Made Available to the Public By the Department
330.230 Information to be Made Available to the Public By the Licensee
330.240 Municipal Licensing
330.250 Ownership Disclosure
330.260 Issuance of Conditional Licenses
330.270 Monitoring and Receivership
330.271 Presentation of Findings
330.272 Determination to Issue a Notice of Violation or Administrative Warning
330.274 Determination of the Level of a Violation
330.276 Notice of Violation
330.277 Administrative Warning
330.278 Plans of Correction
330.280 Reports of Correction
330.282 Conditions for Assessment of Penalties
330.284 Calculation of Penalties
330.286 Determination to Assess Penalties
330.288 Reduction or Waiver of Penalties
330.290 Quarterly List of Violators
330.300 Alcoholism Treatment Programs In Long-Term Care Facilities
330.310 Department May Survey Facilities Formerly Licensed
330.320 Waivers
330.330 Definitions
330.340 Incorporated and Referenced Materials

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

SUBPART B: ADMINISTRATION

Section
330.510 Administrator

SUBPART C: POLICIES

Section
330.710 Resident Care Policies
330.720 Admission and Discharge Policies
330.730 Contract Between Resident and Facility
330.740 Residents' Advisory Council
330.750 General Policies
330.760 Personnel Policies
330.765 Initial Health Evaluation for Employees
330.770 Disaster Preparedness
330.780 Serious Incidents and Accidents

SUBPART D: PERSONNEL

Section
330.910 Personnel
EMERGENCY
330.911 Health Care Worker Background Check
EMERGENCY
330.913 Nursing and Personal Care Assistants (Repealed)
330.916 Student Interns (Repealed)
330.920 Consultation Services
330.930 Personnel Policies

SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

Section
330.1110 Medical Care Policies
330.1120 Personal Care
330.1125 Life Sustaining Treatments
330.1130 Communicable Disease Policies
330.1135 Tuberculin Skin Test Procedures
330.1140 Behavior Emergencies

SUBPART F: RESTORATIVE SERVICES

Section
330.1310 Activity Program
330.1320 Work Programs
330.1330 Written Policies for Restorative Services

SUBPART G: MEDICATIONS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Section
330.1510 Medication Policies
330.1520 Administration of Medication
330.1530 Labeling and Storage of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

Section
330.1710 Resident Record Requirements
330.1720 Content of Medical Records
330.1730 Records Pertaining to Residents' Property
330.1740 Retention and Transfer of Resident Records
330.1750 Other Resident Record Requirements
330.1760 Retention of Facility Records
330.1770 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section
330.1910 Director of Food Services
330.1920 Dietary Staff in Addition to Director of Food Services
330.1930 Hygiene of Dietary Staff
330.1940 Diet Orders
330.1950 Adequacy of Diet and Meal Pattern
330.1960 Therapeutic Diets
330.1970 Scheduling of Meals
330.1980 Menu Planning
330.1990 Food Preparation and Service
330.2000 Food Handling Sanitation
330.2010 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section
330.2210 Maintenance
330.2220 Housekeeping
330.2230 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
330.2410 Furnishings
330.2420 Equipment and Supplies

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section
330.2610 Codes

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

330.2620 Water Supply
330.2630 Sewage Disposal
330.2640 Plumbing

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW SHELTERED CARE FACILITIES

Section
330.2810 Applicable Requirements (Repealed)
330.2820 Applicability of These Standards
330.2830 Submission of a Program Narrative
330.2840 New Constructions, Additions, Conversions, and Alterations
330.2850 Preparation and Submission of Drawings and Specifications
330.2860 First Stage Drawings
330.2870 Second Stage Drawings
330.2880 Architectural Drawings
330.2890 Structural Drawings
330.3000 Mechanical Drawings
330.3010 Electrical Drawings
330.3020 Additions to Existing Structures
330.3030 Specifications
330.3040 Building Codes
330.3050 Site
330.3060 General Building Requirements
330.3070 Administration
330.3080 Corridors
330.3090 Bath and Toilet Rooms
330.3100 Living, Dining, Activity Rooms
330.3110 Bedrooms
330.3120 Special Care Room
330.3130 Kitchen
330.3140 Laundry
330.3150 Housekeeping, Service, and Storage
330.3160 Plumbing
330.3170 Heating
330.3180 Electrical

SUBPART N: FIRE PROTECTION STANDARDS FOR NEW SHELTERED CARE FACILITIES

Section
330.3310 Applicable Requirements (Repealed)
330.3320 Applicability of These Standards
330.3330 Fire Protection
330.3340 Fire Department Service and Water Supply
330.3350 General Building Requirements
330.3360 Exit Facilities and Subdivision of Floor Areas
330.3370 Stairways, Vertical Openings, and Doorways

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

330.3380 Corridors
330.3390 Exit Lights and Directional Signs
330.3400 Hazardous Areas and Combustible Storage
330.3410 Fire Alarm and Detection System
330.3420 Fire Extinguishers, Electric Wiring, and Miscellaneous
330.3430 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING SHELTERED CARE FACILITIES

Section
330.3610 Site
330.3620 General Building Requirements
330.3630 Administration
330.3640 Corridors
330.3650 Bath and Toilet Rooms
330.3660 Living, Dining, and Activity Rooms
330.3670 Bedrooms
330.3680 Special Care Room
330.3690 Kitchen
330.3700 Laundry Room
330.3710 Housekeeping and Service Rooms and Storage Space
330.3720 Plumbing and Heating
330.3730 Electrical

SUBPART P: FIRE PROTECTION STANDARDS FOR EXISTING SHELTERED CARE FACILITIES

Section
330.3910 Fire Protection
330.3920 Fire Department Service and Water Supply
330.3930 Occupancy and Fire Areas
330.3940 Exit Facilities and Subdivision of Floor Areas
330.3950 Stairways, Vertical Openings, and Doorways
330.3960 Exit and Fire Escape Lights and Directional Signs
330.3970 Hazardous Areas and Combustible Storage
330.3980 Fire Alarm and Detection System
330.3990 Fire Extinguishers, Electric Wiring, and Miscellaneous
330.4000 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART Q: RESIDENT'S RIGHTS

Section
330.4210 General
330.4220 Medical and Personal Care Program
330.4230 Restraints
330.4240 Abuse and Neglect
330.4250 Communication and Visitation

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

330.4260 Resident's Funds
330.4270 Residents' Advisory Council
330.4280 Contract With Facility
330.4290 Private Right of Action
330.4300 Transfer or Discharge
330.4310 Complaint Procedures
330.4320 Confidentiality
330.4330 Facility Implementation

SUBPART R: DAY CARE PROGRAMS

Section
330.4510 Day Care In Long-Term Care Facilities

APPENDIX A Interpretation, Components, and Illustrative Services for Sheltered Care Facilities
APPENDIX B Classification of Distinct Part of a Facility For Different Levels of Service (Repealed)
APPENDIX C Forms for Day Care in Long-Term Care Facilities
APPENDIX D Criteria for Activity Directors Who Need Only Minimal Consultation
TABLE A Disaster Preparedness Parameters -- Relative Humidity and Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 807, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 933, effective July 28, 1980; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14547, effective November 8, 1982; amended at 6 Ill. Reg. 14681, effective November 15, 1982; amended at 7 Ill. Reg. 1963, effective January 28, 1983; amended at 7 Ill. Reg. 6973, effective May 17, 1983; amended at 7 Ill. Reg. 15825, effective November 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15, 1984; amended at 8 Ill. Reg. 15941, effective August 17, 1984; codified at 8 Ill. Reg. 19790; amended at 8 Ill. Reg. 24241, effective November 28, 1984; amended at 8 Ill. Reg. 24696, effective December 7, 1984; amended at 9 Ill. Reg. 2952, effective February 25, 1985; amended at 9 Ill. Reg. 10974, effective July 1, 1985; amended at 11 Ill. Reg. 16879, effective October 1, 1987; amended at 12 Ill. Reg. 1017, effective December 24, 1987; amended at 12 Ill. Reg. 16870, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18939, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6562, effective April 17, 1989; amended at 13 Ill. Reg. 19580, effective December 1, 1989; amended at 14 Ill. Reg. 14928, effective October 1, 1990; amended at 15 Ill. Reg. 516, effective January 1, 1991; amended at 16 Ill. Reg. 651, effective January 1, 1992; amended at 16 Ill. Reg. 14370, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2405,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8000, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15089, effective September 3, 1993; amended at 17 Ill. Reg. 16180, effective January 1, 1994; amended at 17 Ill. Reg. 19258, effective October 26, 1993; amended at 17 Ill. Reg. 19576, effective November 4, 1993; amended at 17 Ill. Reg. 21044, effective November 20, 1993; amended at 18 Ill. Reg. 1475, effective January 14, 1994; amended at 18 Ill. Reg. 15851, effective October 15, 1994; amended at 19 Ill. Reg. 11567, effective July 29, 1995; emergency amendments at 20 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 552, effective JAN 01 1995.

SUBPART D: PERSONNEL

Section 330.910 Personnel
EMERGENCY

a) *A facility shall not employ an individual as a nurse aide* or a person who performs these types of duties *unless the facility has inquired of the Department as to information in the registry concerning the individual.* (Section 3-206.01 of the Act) The Department shall advise the inquirer if the individual is on the Registry, if the individual has findings of abuse, neglect or misappropriation of property in accordance with Sections 3-206.01 and 3-206.02 of the Act, and if the individual has a current background check. (See Section 330.911 of this Part.)

b) ~~a)~~ Sufficient staff in numbers and qualifications shall be on duty all hours of each day to provide services that meet the total needs of the residents. As a minimum, there shall be at least one staff member awake, dressed, and on duty at all times. (A, B)

c) ~~b)~~ The facility shall provide an administrator as set forth in Subpart B. (B)

d) ~~c)~~ The facility shall provide activity personnel as set forth in Section 330.1310(b). (B)

e) ~~d)~~ The facility shall provide dietary personnel as set forth in Sections 330.1910 through 330.1920. (B)

f) ~~e)~~ Facilities that care for mentally retarded or discharged psychiatric residents shall be required to have a social worker who shall devote at least 40 hours per week providing that the facility cares for 75 or more residents. Facilities caring for less than 75 residents shall have a social worker who may be assigned other duties or shared with other facilities. (B)

(Source: Emergency amendment at 20 Ill. Reg. 552, effective January 1, 1996, for a maximum of 150 days)

Section 330.911 Health Care Worker Background Check

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

EMERGENCY

a) The facility shall not *knowingly hire any individual* after January 1, 1996 *in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of* the following *offenses* (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):
   1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5]);
   2) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5, and 10-7 of the Criminal Code of 1961);
   3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961);
   4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961);
   5) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-15, and 12-16 of the Criminal Code of 1961);
   6) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961);
   7) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961);
   8) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1, and 19-3 of the Criminal Code of 1961);
   9) Criminal trespass (Section 19-4 of the Criminal Code of 1961);
   10) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961);
   11) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961);
   12) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, and 9]); or
   13) Manufacture, delivery or trafficking of cannabis (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1].

b) The facility shall not *knowingly employ or retain any individual* after January 1, 1997 *in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the offenses* listed in subsections (a)(1)-(13) of this Section *unless the applicant, employee* or employer *obtains a waiver pursuant to* subsections (i) and (j) of this Section. (Section 25 of the Health Care Worker Background Check Act)

c) For the purpose of this Section:
   1) *"Applicant"* means *an individual seeking employment with a* facility *who has received a bona fide conditional offer of employment.*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

   2) *"Conditional offer of employment"* means *a bona fide offer of employment by a* facility *to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses* listed in subsections (a)(1)-(13) of this Section.
   3) *"Direct care"* means *the provision of nursing or personal care.* (Section 15 of the Health Care Worker Background Check Act)

d) *Beginning January 1, 1996* when the facility *makes a conditional offer of employment to an applicant* who is not exempt under subsection (1) of this Section *for a position with duties that involve direct care for residents,* the employer *must initiate a* Uniform Conviction Information Act (UCIA) *Criminal History Record Check for that applicant.* (Section 30 of the Health Care Worker Background Check Act)

e) *No later than January 1, 1997 a* facility *must initiate a UCIA Criminal History Record Check for all employees* who were hired before January 1, 1996 and who are not exempt because of subsection (1) of this Section *with duties that involve direct care for residents.* (Section 30 of the Health Care Worker Background Check Act)

f) *The request for a UCIA Criminal History Record Check shall be* made as *prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint UCIA* Criminal History Record *search is made:*
   1) *That the* facility *shall request a UCIA Criminal History Record Check pursuant to* the Health Care Worker Background Check *Act.*
   2) *That the applicant or employee has a right to obtain a copy of the Criminal Records Report, challenge the accuracy and completeness of the report, and request a waiver* in accordance with subsection (i) of this Section.
   3) *That the applicant, if hired conditionally, may be terminated if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's identity is validated and it is determined that the* applicant or employee *does not have a disqualifying Criminal History Record based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section.
   4) *That the applicant, if not hired conditionally, shall not be hired if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's record is cleared based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section.
   5) *That the employee may be terminated if the Criminal Records*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section *unless the applicant's record is cleared based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section. (Section 30 of the Health Care Worker Background Check Act)

g) A facility *may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA Criminal History Record Check.* (Section 30 of the Health Care Worker Background Check Act)

h) *An applicant or employee whose UCIA Criminal History Record Check indicates a conviction for committing or attempting to commit one or more of the offenses* listed in subsections (a)(1)-(13) of this Section *may request the* facility to *commence a fingerprint-based UCIA Criminal Records Check by submitting information in a form and manner prescribed by the Department of State Police.* (Section 35 of the Health Care Worker Background Check Act)

i) *An applicant, employee* or employer *may request a waiver* to subsection (a) or (b) of this Section by submitting the following to the Department *within 30 days after the receipt of the Criminal Records Report:*

1) *Information necessary to initiate a fingerprint-based UCIA Criminal Records Check in a form and manner prescribed by the Department of State Police* (Section 40 of the Health Care Worker Background Check Act); and

2) A certified check or money order made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA Criminal Records Check.

j) The Department *may grant a waiver based on mitigating circumstances, which may include:*

1) *The age at which the crime was committed;*
2) *The circumstances surrounding the crime;*
3) *The length of time since the conviction;*
4) *The applicant's or employee's criminal history since the conviction;*
5) *The applicant's or employee's work history;*
6) *The applicant's or employee's current employment references;*
7) *The applicant's or employee's character references; and*
8) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents.* (Section 40 of the Health Care Worker Background Check Act)

k) A facility *is not obligated to employ or offer permanent employment to an applicant, or retain an employee who is granted a waiver.* (Section 40(d) of the Health Care Worker Background Check Act)

l) This Section *shall not apply to:*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

1) *An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law; or*

2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State.* (Section 20 the Health Care Worker Background Check Act)

m) *The* facility *must send a copy of the results of the UCIA* Criminal History *Record Check to the State Nurse Aide Registry.* (Section 30(b) of the Act)

n) *The* facility *shall retain on file for a period of 5 years records of criminal records requests for all employees, other than nurse aides. The file shall be subject to inspection by the* Department. *A fine of $500* shall *be imposed for failure to maintain these records.* (Section 50 the Health Care Worker Background Check Act)

(Source: Emergency amendment at 20 Ill. Reg. 552, effective January 1, 1996, for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code

2) Code Citation: 77 Ill. Adm. Code 300

3)

Section Numbers:	Adopted Action:
300.660	Amendments
300.661	New Section
300.663	New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective Date of Emergency Amendments: January 1, 1996

6) If this emergency rules is to expire before the end of the 150 day period, please specify the date on which it is to expire: This emergency will not expire before the end of the 150 day period.

7) Date Filed in Agency's Principal Office: January 1, 1996

8) Reason for Emergency: The Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995) established requirements for Uniform Conviction Information Act (UCIA) criminal history record checks for certain health care workers. The Act applies to all individuals employed or retained by a health care employer as home health care aides, nurse aides, personal care assistants, private duty nurse aides, student nurses, day training personnel or any similar health - related occupations. Health care employers include community living facilities, life care facilities, long-term care facilities, home health agencies, full hospices, hospitals, community residential alternatives, nurse agencies, respite care providers, certified day training programs, and community integrated living arrangements. Individuals who are licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State or who are employed or retained by a health care employer for whom a criminal background check is required by another law of this State are exempt from the Act.

Beginning January 1, 1996, the Department of Public Health or its designee that tests nurse aides must request a UCIA criminal history records check for each nurse aide applying for inclusion on the State nurse aide registry. Also beginning January 1, 1996, a health care employer who makes a conditional offer of employment to an applicant other than a nurse aide for a position with duties that involve direct care for clients, patients, or residents must initiate a UCIA criminal history record check for that applicant. Criminal history record checks for all other nonlicensed direct care employees must be initiated no later than January 1, 1997. After January 1, 1996, or January 1, 1997, as applicable, health care employers are prohibited from hiring, employing, or retaining any

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

individual in a direct care position who has been convicted of commiting or attempting to commit one or more of the offenses listed in the Act.

The Act includes a provision whereby a waiver of the employment prohibition may be requested by submitting certain information to the entity responsible for inspecting, licensing, certifying or registering the health care employer within 30 days after receipt of the criminal records report.

Health care employers are required to retain on file for a period of five years records of criminal records requests for all employees covered under the Act, other than nurse aides. The Department of Public Health is required to include in its nurse aide registry the date of a nurse aide's last criminal records check and information concerning disqualification pursuant to the Act.

Enactment of P.A. 89-197 has an impact on many of the Department's regulatory programs, requiring amendments to ten Parts (77 Ill. Adm. Code 300, 330, 340, 350, 370, 390, 245, 250, 280, and 395). To enforce the law uniformly, the Department determined that all of the rule changes should be adopted at once; however, the rule changes are required by law to be reviewed by each program's respective licensing or advisory board, which meets quarterly. The rule changes were presented to the State Board of Health on September 14, 1995 (Parts 280 and 370); to the Home Health Advisory Council on October 25, 1995 (Part 245); to the Hospital Licensing Board on November 15, 1995, (Part 250); and to the Long-Term Care Facility Advisory Board on November 15, 1995 (Parts 300, 330, 340, 350, 390, and 395). Background checks under P.A. 89-197 are required to begin on January 1, 1996. Implementation of the Act will help to protect the health, safety and welfare of recipients of health care services through a variety of providers throughout the State. Thousands of health care workers are affected by this legislation, which will prohibit persons who have been convicted of serious crimes from employment in positions involving direct care of patients or residents. The Department is mandated to begin implementing the Act on January 1, 1996. Therefore, the Department believes that emergency rulemaking is necessary to meet the time frames imposed by the Act.

9) A Complete Description of the Subjects and Issues Involved: The rules in Part 300 establish requirements for the licensure of skilled nursing and intermediate care facilities in Illinois. The rules are being amended to implement the Health Care Worker Background Check Act (P.A. 89-197, effective July 21, 1995).

Section 300.660 is amended to include new requirements for nursing assistants under the Health Care Worker Background Check Act. Facilities are required to contact the Department's nurse aide registry to find out whether the individual has a current background check. Provisions

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

concerning placement of a nursing assistant on the Registry are deleted, since a new Section 300.663 is being added to specify and clarify Registry requirements.

Section 300.661 is being added to implement the Health Care Worker Background Check Act. The rule lists, in subsection (a), the offenses that, under the Act, bar an individual from being hired in a direct care position. Under subsection (b), facilities are prohibited from knowingly employing or retaining an individual in a direct care position, after January 1, 1997, if the individual has been convicted of committing or attempting to commit one or more of the offenses listed in subsection (a). Definitions of the terms "applicant," "conditional offer of employment," and "direct care," as they apply to this Section, are included in subsection (c). Subsection (d) requires facilities to initiate Uniform Conviction Information Act (UCIA) criminal history record checks, beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant for a position with duties that involve direct care for residents. Facilities are also required (subsection (e)), no later than January 1, 1997, to initiate a UCIA criminal history record check for direct care employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check and who are not exempt under subsection (l). Notification requirements to the applicant or employee are set forth in subsection (f). Subsection (g) contains a provision for conditional employment, and subsection (h) concerns requests for fingerprint-based records checks for individuals whose non-fingerprint check indicates a conviction. Under subsection (i), an applicant, employee, or employer may request a waiver to the employment prohibitions in subsections (a) and (b). Mitigating circumstances under which the Department may grant a waiver are listed in subsection (j). Facilities are not obligated to employ applicants who are granted waivers (subsection (k)). Subsection (m) requires facilities to send a copy of the results of the background check to the State nurse aide registry. Requirements for retention of records are set forth in subsection (n).

Section 300.663 is added to set forth requirements for placement on the Nurse Aide Registry, including meeting background check requirements under Section 300.661.

10) Are there any proposed amendments to this Part pending? Yes

Section	Proposed Action	Illinois Register Citation
300.330	Amendments	19 Ill. Reg. 14703
300.680	Amendments	19 Ill. Reg. 14703
300.682	New Section	19 Ill. Reg. 14703
300.684	New Section	19 Ill. Reg. 14703
300.686	New Section	19 Ill. Reg. 14703
300.1040	Repealer	19 Ill. Reg. 14703

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

300.1210	Amendments	19 Ill. Reg. 14703
300.1620	Amendments	19 Ill. Reg. 14703
Appendix F	New Section	19 Ill. Reg. 14703

11) Statement of Statewide Policy Objectives: This rulemaking will affect county nursing homes.

12) Information and Questions regarding these amendments shall be directed to:

Ms. Gail Devito
Division of Governmental Affairs
Illinois Department of Public Health
535 West Jefferson Street, Fifth Floor
Springfield, IL 62761
(217)782-6187

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 300
SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section
300.110 General Requirements
300.120 Application for License
300.130 Licensee
300.140 Issuance of an Initial License for a New Facility
300.150 Issuance of an Initial License Due to a Change of Ownership
300.160 Issuance of a Renewal License
300.165 Criteria for Adverse Licensure Actions
300.170 Denial of Initial License
300.175 Denial of Renewal of License
300.180 Revocation of License
300.190 Experimental Program Conflicting With Requirements
300.200 Inspections, Surveys, Evaluations and Consultation
300.210 Filing an Annual Attested Financial Statement
300.220 Information to Be Made Available to the Public By the Department
300.230 Information to Be Made Available to the Public By the Licensee
300.240 Municipal Licensing
300.250 Ownership Disclosure
300.260 Issuance of Conditional Licenses
300.270 Monitor and Receivership
300.271 Presentation of Findings
300.272 Determination to Issue a Notice of Violation or Administrative Warning
300.274 Determination of the Level of a Violation
300.276 Notice of Violation
300.277 Administrative Warning
300.278 Plans of Correction
300.280 Reports of Correction
300.282 Conditions for Assessment of Penalties
300.284 Calculation of Penalties
300.286 Determination to Assess Penalties
300.288 Reduction or Waiver of Penalties
300.290 Quarterly List of Violators
300.300 Alcoholism Treatment Programs In Long-Term Care Facilities
300.310 Department May Survey Facilities Formerly Licensed
300.320 Waivers
300.330 Definitions
300.340 Incorporated and Referenced Materials

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

SUBPART B: ADMINISTRATION

Section
300.510 Administrator

SUBPART C: POLICIES

Section
300.610 Resident Care Policies
300.620 Admission and Discharge Policies
300.630 Contract Between Resident and Facility
300.640 Residents' Advisory Council
300.650 Personnel Policies
300.655 Initial Health Evaluation for Employees
300.660 Nursing Assistants
EMERGENCY
300.661 Health Care Worker Background Check
EMERGENCY
300.663 Registry of Certified Nurse Aides
EMERGENCY
300.665 Student Interns
300.670 Disaster Preparedness
300.680 Restraints and Safety Devices
300.690 Serious Incidents and Accidents

SUBPART D: PERSONNEL

Section
300.810 General
300.820 Categories of Personnel
300.830 Consultation Services
300.840 Personnel Policies

SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

Section
300.1010 Medical Care Policies
300.1020 Communicable Disease Policies
300.1025 Tuberculin Skin Test Procedures
300.1030 Medical Emergencies
300.1035 Life-Sustaining Treatments
300.1040 Behavior Emergencies
300.1050 Dental Standards

SUBPART F: NURSING AND PERSONAL CARE

Section
300.1210 General Requirements for Nursing and Personal Care

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

300.1220 Supervision of Nursing Services
300.1230 Staffing
300.1240 Additional Requirements

SUBPART G: RESIDENT CARE SERVICES

Section
300.1410 Activity Program
300.1420 Specialized Rehabilitation Services
300.1430 Work Programs

SUBPART H: MEDICATIONS

Section
300.1610 Medication Policies and Procedures
300.1620 Conformance With Physician's Orders
300.1630 Administration of Medication
300.1640 Labeling and Storage of Medications
300.1650 Control of Medications

SUBPART I: RESIDENT AND FACILITY RECORDS

Section
300.1810 Resident Record Requirements
300.1820 Content of Medical Records
300.1830 Records Pertaining to Residents' Property
300.1840 Retention and Transfer of Resident Records
300.1850 Other Resident Record Requirements
300.1860 Staff Responsibility for Medical Records
300.1870 Retention of Facility Records
300.1880 Other Facility Record Requirements

SUBPART J: FOOD SERVICE

Section
300.2010 Director of Food Services
300.2020 Dietary Staff in Addition to Director of Food Services
300.2030 Hygiene of Dietary Staff
300.2040 Diet Orders
300.2050 Adequacy of Diet and Meal Pattern
300.2060 Therapeutic Diets
300.2070 Scheduling Meals
300.2080 Menu Planning
300.2090 Food Preparation and Service
300.2100 Food Handling Sanitation
300.2110 Kitchen Equipment, Utensils, and Supplies

SUBPART K: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Section
300.2210 Maintenance
300.2220 Housekeeping
300.2230 Laundry Services

SUBPART L: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
300.2410 Furnishings
300.2420 Equipment and Supplies
300.2430 Sterilization of Equipment and Supplies

SUBPART M: WATER SUPPLY AND SEWAGE DISPOSAL

Section
300.2610 Codes
300.2620 Water Supply
300.2630 Sewage Disposal
300.2640 Plumbing

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section
300.2810 Applicability of These Standards
300.2820 Codes and Standards
300.2830 Preparation of Drawings and Specifications
300.2840 Site
300.2850 Administration and Public Areas
300.2860 Nursing Unit
300.2870 Dining, Living, Activities Rooms
300.2880 Therapy and Personal Care
300.2890 Service Departments
300.2900 General Building Requirements
300.2910 Structural
300.2920 Mechanical Systems
300.2930 Plumbing Systems
300.2940 Electrical Systems

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section
300.3010 Applicability
300.3020 Codes and Standards
300.3030 Preparation of Drawings and Specifications
300.3040 Site
300.3050 Administration and Public Areas

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

300.3060 Nursing Unit
300.3070 Living, Dining, Activities Rooms
300.3080 Treatment and Personal Care
300.3090 Service Departments
300.3100 General Building Requirements
300.3110 Structural
300.3120 Mechanical Systems
300.3130 Plumbing Systems
300.3140 Electrical Requirements

SUBPART P: RESIDENT'S RIGHTS

Section
300.3210 General
300.3220 Medical and Personal Care Program
300.3230 Restraints
300.3240 Abuse and Neglect
300.3250 Communication and Visitation
300.3260 Resident's Funds
300.3270 Residents' Advisory Council
300.3280 Contract With Facility
300.3290 Private Right of Action
300.3300 Transfer or Discharge
300.3310 Complaint Procedures
300.3320 Confidentiality
300.3330 Facility Implementation

SUBPART Q: SPECIALIZED LIVING FACILITIES FOR THE MENTALLY ILL

Section
300.3410 Application of Other Divisions of These Minimum Standards
300.3420 Administrator
300.3430 Policies
300.3440 Personnel
300.3450 Resident Living Services Medical and Dental Care
300.3460 Resident Services Program
300.3470 Psychological Services
300.3480 Social Services
300.3490 Recreational and Activities Services
300.3500 Individual Treatment Plan
300.3510 Health Services
300.3520 Medical Services
300.3530 Dental Services
300.3540 Optometric Services
300.3550 Audiometric Services
300.3560 Podiatric Services
300.3570 Occupational Therapy Services
300.3580 Nursing and Personal Care

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

300.3590 Resident Care Services
300.3600 Record Keeping
300.3610 Food Service
300.3620 Furnishings, Equipment and Supplies (New and Existing Facilities)
300.3630 Design and Construction Standards (New and Existing Facilities)

SUBPART R: day care PROGRAMS

Section
300.3710 Day Care in Long-Term Care Facilities

APPENDIX A Interpretation, Components, and Illustrative Services for Intermediate Care Facilities and Skilled Nursing Facilities
APPENDIX B Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
APPENDIX C Federal Requirements Regarding Patients'/Residents' Rights
APPENDIX D Forms for Day Care in Long-Term Care Facilities
APPENDIX E Criteria for Activity Directors Who Need Only Minimal Consultation
TABLE A Sound Transmission Limitations in New Skilled Nursing and Intermediate Care Facilities
TABLE B Pressure Relationships and Ventilation Rates of Certain Areas for New Intermediate Care Facilities and Skilled Nursing Facilities
TABLE C Construction Types and Sprinkler Requirements for Existing Skilled Nursing Facilities/Intermediate Care Facilities
TABLE D Disaster Preparedness Parameters - Relative Humidity and Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 1066, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 311, effective July 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective December 22, 1982; amended at 7 Ill. Reg. 1972, effective January 28, 1983; amended at 7 Ill. Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983; amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992, effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186, effective November 29, 1984; amended at 8 Ill. Reg. 24668, effective December 7, 1984; amended at 8 Ill.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 554, effective January 1, 1991; amended at 16 Ill. Reg. 681, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended at 16 Ill. Reg. 17089, effective November 3, 1992; emergency amendment at 17 Ill. Reg. 2420, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1491, effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendments at 20 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg 567, effective JAN 01 1996.

SUBPART C: POLICIES

Section 300.660 Nursing Assistants
EMERGENCY

a) *A facility shall not employ an individual as a nurse aide unless the facility has inquired of the Department as to information in the Registry concerning the individual.* (Section 3-206.01 of the Act) The Department shall advise the inquirer if the individual is on the Registry, if the individual has findings of abuse, neglect, or misappropriation of property in accordance with Sections 3-206.01 and 3-206.02 of the Act, and if the individual has a current background check. (See Section 300.661 of this Part.)

b)~~a~~) Each of the facility's nursing assistants shall comply with one of the following conditions no later than 45 days after the date of initial employment.

1) Provide documentation of registration on the Department's Nurse Aide Registry.~~:~~

2) Enroll in a Department approved Basic Nursing Assistant Training Program (see 77 Ill. Adm. Code 395). The program ~~course work and the competency evaluations, both written and manual skills,~~ shall be successfully completed no later than 120 days after the date of initial employment. Programs approved in accordance with 77 Ill. Adm. Code 395.150(a)(2) may last longer than 120 days. However, a nursing assistant may be employed no more than 120 days prior to the successful completion of the program ~~course work and the competency evaluations.~~

3) Submit documentation to the Department in accordance with Section 300.663 of this Part to be registered on the Nurse Aide Registry. ~~Provide documentation of current registration from another state indicating that the requirements of 42 CFR 483.151 483.154 have been met and that there are no documented findings of abuse, neglect, or misappropriation of property.~~

~~4) Provide documentation of successful completion of a nursing arts course in an accredited nurse training program as evidenced by a diploma, certificate or other written verification from the school and successful completion of the Department approved nursing assistant competency evaluation.~~

~~5) Provide documentation of successful completion of a United States military training program that includes the content of the Basic Nursing Assistant Training Program (see 77 Ill. Adm. Code 395), as evidenced by a diploma, certification or other written verification, and successful completion of the written portion of the Department approved nursing assistant competency evaluation.~~

c)~~b~~) Each person employed by the facility as a nursing assistant shall meet each of the following requirements:

1) *Be at least sixteen years of age, of temperate habits and good moral character, honest, reliable and trustworthy.* (Section 3-206 (a)(1) of the Act)

2) *Be able to speak and understand the English language or a language understood by a substantial percentage of the facility's residents.* (Section 3-206(a)(2) of the Act)

3) *Provide evidence of* prior *employment or occupation, if any, and residence for two years prior to* present ~~initial~~ employment as a nursing assistant. (Section 3-206(a)(3) of the Act)

4) *Have completed at least eight years of grade school or provide proof of equivalent knowledge.* (Section 3-206(a)(4) of the Act)

d)~~c~~) *The facility shall certify that each* nursing assistant ~~nursing assistant~~ *employed by the facility meets the requirements* of this Section. Such certification shall be retained by the facility as part of the employee's personnel record. (Section 3-206(d) and (e) of the Act)

e)~~d~~) During inspections of the facility, the Department may require nursing aides ~~assistants~~ to demonstrate competency in the principles, techniques, and procedures covered by the basic nursing assistant training program curriculum described in the rules governing training programs for nursing assistants and aides (see 77 Ill. Adm. Code 395), when possible problems in the care provided by aides ~~nursing assistants~~ or other evidences of inadequate training are observed. The State approved manual skills ~~competency~~ evaluation testing format

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

and forms will be used to determine competency of a an aide ~~nursing assistant~~ when appropriate. Failure to demonstrate competency of the principles, techniques and procedures shall result in the provision of in-service training to the individual by the facility. The in-service training shall address the basic nursing assistant training principles and techniques relative to the procedures in which the ~~nursing assistants and~~ aides are found to be deficient during inspection (see 77 Ill. Adm. Code 395).

~~e) A facility which conducts a training program for nursing assistants shall comply with the applicable provisions of the Department's rules governing training programs for nursing assistants and aides (see 77 Ill. Adm. Code 395.200).~~

~~f) A facility shall not employ an individual as a nurse aide unless the facility has inquired of the Department as to information in the registry concerning the individual; e.g., finding of abuse, neglect, or misappropriated resident property. (Section 3-206.01 of the Act)~~

~~g) A facility shall not employ anyone not on the registry unless the individual is enrolled in a training program in accordance with subsection (a)(2) of this Section. (Section 3-206.01 of the Act)~~

(Source: Amended at 20 Ill. Reg. 507, effective JAN 01 1996)

Section 300.661 Health Care Worker Background Check
EMERGENCY

a) The facility shall not *knowingly hire any individual* after January 1, 1996 *in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of* the following *offenses* (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46]):
   1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5]);
   2) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961);
   3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961);
   4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12- 4.6, and 12-4.7 of the Criminal Code of 1961);
   5) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-15, and 12-16 of the Criminal Code of 1961);
   6) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961);
   7) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961);
   8) Theft, financial exploitation of an elderly or disabled person, robbery or burglary (Sections 16-1, 16-1.3, 16A-3, 18-1, 18-2, 19-1, and 19-3 of the Criminal Code of 1961);
   9) Criminal trespass (Section 19-4 of the Criminal Code of 1961);
   10) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961);
   11) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961);
   12) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1 and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1 and 9]); or
   13) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1]).

b) The facility shall not *knowingly employ or retain any individual* after January 1, 1997 *in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the offenses* listed in subsections (a)(1)-(13) of this Section *unless the applicant, employee* or employer *obtains a waiver pursuant to* subsections (i) and (j) of this Section. (Section 25 of the *Health Care Worker Background Check Act)*

c) For the purpose of this Section:
   1) *"applicant"* means *an individual seeking employment with* a facility *who has received a bona fide conditional offer of employment.*
   2) *"conditional offer of employment"* means *a bona fide offer of employment by a* facility *to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses* listed in subsections (a)(1)-(13) of this Section.
   3) *"Direct care"* means *the provision of nursing or personal care.* (Section 15 of the Health Care Worker Background Check Act)

d) *Beginning January 1, 1996* when the facility *makes a conditional offer of employment to an applicant* who is not exempt under subsection (1) of this Section, *for a position with duties that involve direct care for residents,* the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) Criminal History Record Check. If a UCIA Criminal History Record Check has not been conducted within the last year, the facility *must initiate a UCIA Criminal History Record Check for that applicant.* (Section 30 of the Health Care Worker Background Act)

e) *No later than January 1, 1997 A* facility *must initiate a UCIA Criminal History Record Check for all employees* who were hired before January 1, 1996, who have not already had a UCIA Criminal History Record Check, and who are not exempt because of subsection (1) of this Section *with duties that involve direct care for residents.* (Section 30 of the Health Care Worker Background Check Act)

f) *The request for a UCIA Criminal History Record Check shall be* made as

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

prescribed by the Department of State Police. The applicant of employee must be notified of the following whenever a non-fingerprint UCIA Criminal History Record *search is made:*

1) *That the* facility *shall request a UCIA Criminal History Record Check pursuant to* the Health Care Worker Background Check Act.

2) *That the applicant or employee has a right to obtain a copy of the Criminal Records Report, challenge the accuracy and completeness of the report, and request a waiver* in accordance with subsection (i) of this Section.

3) *That the applicant, if hired conditionally, may be terminated if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's identity is validated and it is determined that the* applicant or employee *does not have a disqualifying Criminal History Record based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section.

4) *That the applicant, if not hired conditionally, shall not be hired if the Criminal Records Report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's record is cleared based on a fingerprint records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section.

5) *That the employee may be terminated if the Criminal Records Report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in* subsections (a)(1)-(13) of this Section *unless the applicant's record is cleared based on a fingerprint-based records check pursuant to* subsection (h) of this Section *or the employee receives a waiver pursuant to* subsections (i) and (j) of this Section. (Section 30 of the Health Care Worker Background Check Act)

g) *A* facility *may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA Criminal History Record Check.* (Section 30 of the Health Care Worker Background Check Act)

h) *An applicant or employee whose UCIA Criminal History Record Check indicates a conviction for committing or attempting to commit one or more of the offenses* listed in subsections (a)(1)-(13) of this Section *may request the* facility to *commence a fingerprint UCIA Criminal Records Check by submitting information in a form and manner prescribed by the Department of State Police.* (Section 35 of the Health Care Worker Background Check Act)

i) *An applicant, employee* or employer *may request a waiver* to subsection (a) or (b) of this Section by submitting the following to the Department *within 30 days after the receipt of the Criminal Records Report:*

1) *Information necessary to initiate a fingerprint-based UCIA Criminal Records Check in a form and manner prescribed by the Department of State Police* (Section 40 of the Health Care Worker Background Check Act); and

2) A certified check or money order made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA Criminal Records Check.

j) The Department *may grant a waiver based on mitigating circumstances, which may include:*

1) *The age at which the crime was committed;*

2) *The circumstances surrounding the crime;*

3) *The length of time since the conviction;*

4) *The applicant's of employee's criminal history since the conviction;*

5) *The applicant's of employee's work history;*

6) *The applicant's or employee's current employment references;*

7) *The applicant's or employee's character references; and*

8) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a treat to the health or safety or residents.* (Section 40 of the Health Care Worker Background Check Act)

k) *A* facility *is not obligated to employ or offer permanent employment fo an applicant, or retain an employee who is granted a waiver.* (Section 40(d) of the Health Care Worker Background Check Act

l) This Section *shall not apply to:*

1) *An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law; or*

2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State.* (Section 20 of the Health Care Worker Background Check Act)

m) *The* facility *must send a copy of the results of the UCIA* Criminal History *Record Check to the State Nurse Aide Registry.* (Section 30(b) of the Act)

n) *The* facility *shall retain on file for a period of 5 years records of criminal records requests for all employees, other than nurse aides. The file shall be subject to inspection by the* Department. *A fine of* $500 shall *be imposed for failure to maintain these records.* (Section 50 of the Health Care Worker Background Check Act)

(Source: Emergency amendment at 20 Ill. Reg. 677, effective January 1, 1996, for a maximum of 150 days)

Section 300.663 Registry of Certified Nurse Aides
EMERGENCY

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

a) An individual will be placed on the Nurse Aide Registry when he/she has successfully completed a training program approved in accordance with the Long-Term Care Assistants and Aides Training Program Code (77 Ill. Adm. Code 395) and has met background check information required in Section 300.661 of this Part, and when there are no findings of abuse, neglect, or misappropriation of property in accordance with Sections 3-206.01 and 3-206.02 of the Act.

b) An individual will be placed on the Nurse Aide Registry if he/she has met background check information required in Section 300.661 of this Part and submits documentation supporting one of the following equivalencies:

1) Documentation of current registration from another state indicating that the requirements of 42 CFR 483.151 - 483.154 (October 1, 1994, no further amendments or editions included) have been met and that there are no documented findings of abuse, neglect, or misappropriation of property.

2) Documentation of successful completion of a nursing arts course with at least 40 hours of supervised clinical experience in an accredited nurse training program as evidenced by a diploma, certificate or other written verification from the school and successful completion of the Department established nursing assistant competency test.

3) Documentation of successful completion of a United States military training program that includes the content of the Basic Nursing Assistant Training Program (see 77 Ill. Adm. Code 395) and at least 40 hours of supervised clinical experience, as evidenced by a diploma, certification, or other written verification and the written portion of the Department established nursing assistant competency test.

(Source: Emergency amendment at 20 Ill. Reg. 561, effective January 6, 1996, for a maximum of 150 days)

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

1) Heading of the Part: Regulations under the Business Opportunity Sales Law of 1995.

2) Code Citation: 14 Ill. Adm. Code 135

3)

Section Numbers:	Emergency Action:
135.50	New
135.100	New
135.300	New
135.350	New
135.351	New
135.352	New
135.353	New
135.500	New
135.501	New
135.700	New
135.800	New
135.801	New
135.950	New
135.1300	New
135.1400	New
135.1401	New
135.2100	New
135.2101	New
135.2110	New
135.2120	New
135.2130	New
135.2140	New
135.2141	New
135.2143	New
135.2144	New
135.2145	New
135.2190	New

4) Statutory Authority: 815 ILCS 602

5) Effective Date of Rule(s): January 1, 1996

6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: N/A

7) Date Filed in Agency's Principal Office: December 22, 1995

8) Reason for Emergency: The Act creates regulation of Business Opportunities in the State of Illinois. The Act provides for the registration of Business Opportunities effective January 1, 1996.

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

The Department through the legislative process worked with all known entities through the Secretary of State's Securities Advisory Committee, industry associations and law firms. A copy of the Act, emergency rules and registration forms have been mailed to industry groups and any other person requesting copies.

9) A Complete Description of the Subjects and Issues Involved:

Section 135.050 - Added to define terms in the Act and Rules.

Section 135.100 - Added to define exemption by Order.

Section 135.300 - Added to lay out procedures for registration.

Section 135.350 - Added to define acceptable disclosure statement.

Section 135.351 - Added to define additional disclosure from sellers - guarantors.

Section 135.352 - Added to define required amendments to disclosure filing.

Section 135.353 - Added to define material change to disclosure document.

Section 135.500 - Added to define minimum net worth requirement of seller.

Section 135.501 - Added to define bond requirements.

Section 135.700 - Added to define procedures for Hearings.

Section 135.800 - Added to define procedure for Service of Process.

Section 135.801 - Added to define scope of the law.

Section 135.950 - Added to define fraudulent practices.

Section 135.1300 - Added to define procedure for request for non-binding statements.

Section 135.1400 - Added to define inspection of Business Opportunity records.

Section 135.1401 - Added to define non-public distribution of information.

Section 135.2100 - Added to define business hours of Securities Department.

Section 135.2101 - Added to define computation of time.

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

Section 135.2110 - Added to define payment of fees.

Section 135.2120 - Added to define place of filing.

Section 135.2130 - Added to define date of filing.

Section 135.2140 - Added to define requirements as to proper form.

Section 135.2141 - Added to define additional information.

Section 135.2143 - Added to define information unknown or not reasonably available.

Section 135.2144 - Added to define requirements as to paper, printing and language.

Section 135.2145 - Added to define number of copies -- signatures.

Section 135.2190 - Added to define provisions for granting variances from Rules.

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objectives: To enact by emergency the provisions of the Business Opportunity Sales Law of 1995.

12) Information and questions regarding this rule shall be directed to:

Michael A. Chizmar
Lincoln Tower, Suite 200
520 South Second Street
Springfield, IL 62701
(217) 782-2256

The full text of the Emergency Rulemaking begins on the next page:

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATE

PART 135
REGULATIONS UNDER THE BUSINESS OPPORTUNITY SALES LAW OF 1995

SUBPART A: DEFINITIONS

Section
135.50 Definitions of Terms as Used in the Act and the Rules
EMERGENCY

SUBPART B: EXEMPTIONS

Section
135.100 Exemption by Order
EMERGENCY

SUBPART C: REGISTRATION OF BUSINESS OPPORTUNITIES

Section
135.300 Complete Filing
EMERGENCY
135.350 Disclosure Document
EMERGENCY
135.351 Additional Required Disclosure from Seller-Guarantors
EMERGENCY
135.352 Required Amendments to Disclosure Filing
EMERGENCY
135.353 Material Change
EMERGENCY
135.500 Minimum Net Worth Requirements
EMERGENCY
135.501 Bond Requirements
EMERGENCY

SUBPART D: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section
135.700 Hearings
EMERGENCY

SUBPART E: SERVICE OF PROCESS

Section

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

135.800 Service of Process upon the Secretary of State
EMERGENCY
135.801 Scope of the Law
EMERGENCY

SUBPART F: VIOLATIONS

Section
135.950 Fraudulent Practices
EMERGENCY

SUBPART G: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section
135.1300 Request for Non-Binding Statements
EMERGENCY

SUBPART H: PUBLIC INFORMATION

Section
135.1400 Inspection of Business Opportunity Records
EMERGENCY
135.1401 Non-Public Distribution of Information
EMERGENCY

SUBPART I: RULES OF GENERAL APPLICATION

Section
135.2100 Business Hours of the Securities Department
EMERGENCY
135.2101 Computation of Time
EMERGENCY
135.2110 Payment of Fees
EMERGENCY
135.2120 Place of Filing
EMERGENCY
135.2130 Date of Filing
EMERGENCY
135.2140 Requirements as to Proper Form
EMERGENCY
135.2141 Additional Information
EMERGENCY
135.2143 Information Unknown or Not Reasonably Available
EMERGENCY
135.2144 Requirements as to Paper, Printing, and Language
EMERGENCY
135.2145 Number of Copies--Signatures
EMERGENCY

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

135.2190 Provisions For Granting of Variance from Rules
EMERGENCY

AUTHORITY: Implementing and authorized by the Business Opportunity Sales Law of 1995 [815 ILCS 602].

SOURCE: Adopted by emergency rulemaking at 20 Ill. Reg. 585, effective January 1, 1996, for a maximum of 150 days.

SUBPART A: DEFINITIONS

Section 135.50 Definitions of Terms as Used in the Act and the Rules
EMERGENCY

a) As used in this Part, unless the context otherwise requires, the term:
"Act" means the Business Opportunity Sales Law of 1995 [815 ILCS 602] and this Part.

"Consideration" as set forth in Section 5-35(a) of the Act includes, without limitation, fully refundable deposits and postdated checks.

"Date of filing" means the date that all of the required documents are received by the Securities Department and all the required fees are paid to the Secretary of State. A document shall not be deemed to be filed if any information required by the Act is omitted or the document is illegible.

"Federal Banking Act of 1933" means the Federal Banking Act of 1933 (12 U.S.C. 227), and the Rules and Regulations thereunder as in effect on July 1, 1989.

"Initial payment" as set forth in Section 5-10(b) of the Act:
shall include any form of a payment which evidences financial obligation on the part of the purchaser, including, without limitation, a lump sum payment or a note evidencing installment debt; and
shall be the payment, in whatever form, that is made at the time of purchase, inclusive of payment for, without limitation, services, supplies, sales material, samples and inventory.

"Secretary of State" as delineated in Section 5-5.50 means the Securities Department of the Office of the Secretary of State or the Securities Director or his or her designee, as the case may be.

b) A Section in this Part which defines a term without express reference to the Act or to this Part or to a portion thereof or hereof defines

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

such term for all purposes as used both in the Act and in this Part. Terms defined in the Act and not defined in this Part have the meanings given them in the Act.

(Source: Added at 20 Ill. Reg. 584, effective JAN 01 1995)

SUBPART B: EXEMPTIONS

Section 135.100 Exemption by Order
EMERGENCY

a) Pursuant to Section 5-10(h) of the Act, the Secretary of State may by Order exempt the sale of business opportunities from the requirements of the Act. The Secretary of State will consider whether to issue such an order upon receipt of the following submissions:
1) a cover letter describing the basis for the exemption by referencing to this Section and to Section 5-10(h) of the Act;
2) a description and business history of the applicant, the amount and form of payment and any additional fees, costs, or charges;
3) a description of the applicant's litigation history as stated in Section 5-35(b)(6)(A) and (7) of the Act;
4) a description of any bankruptcy petition filed by or against the applicant, its officers, directors or predecessors within the last ten years;
5) a copy of the contract or agreement of sale relating to the business opportunity which is sought to be subject to the order of exemption;
6) copies of any promotional materials;
7) a list of all sales and advertisements in Illinois for the past five years;
8) a list of administrative agencies which have issued or denied exemptions, along with copies of the exemptions and any opinions relating thereto;
9) a statement of the number of units sold in the prior twelve month period, as business opportunities by the applicant in (i) the United States, and (ii) Illinois;
10) a statement of the number of business opportunities the applicant intends to offer for sale in Illinois in the following 12 month period;
11) a copy of any prospectus or other offering circular used by the applicant in the offer or sale of the subject business opportunity; and
12) a certification of facts.

b) Exemption requests will be granted only when in the public interest. An exemption will be considered in the public interest under the following circumstances:
1) the applicant intends to sell no more than two business

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

opportunities in Illinois in the ensuing twelve months;

2) the litigation and bankruptcy history described in subsections (a)(3) and (4) of this Section is not materially adverse to the interest of the prospective business opportunity purchasers; and

3) the applicant agrees to provide the business opportunity purchasers with disclosure as required by Section 5-35(b) of the Act or Section 135.350 of this Part.

(Source: Added at 20 Ill. Reg. 584, effective JAN 0 1 1996)

SUBPART C: REGISTRATION OF BUSINESS OPPORTUNITIES

Section 135.300 Complete Filing
EMERGENCY

A complete filing within the meaning of Section 5-30(d)(2) of the Act is a filing which includes:

a) an application form;

b) a disclosure document with a current financial statement, without any deficiencies or omissions in disclosure;

c) a consent to service of process;

d) a surety bond; and

e) the appropriate fee(s) as specified in Section 135.2110 of this Part.

(Source: Added at 20 Ill. Reg. 584, effective JAN 0 1 1996)

Section 135.350 Disclosure Document
EMERGENCY

The Secretary of State deems the following disclosure formats to be in full compliance with the disclosure requirements of Section 5-35 of the Act. No format other than the following or the format described in Section 5-35(b) of the Act shall be utilized. The different permissible formats may not be intermingled.

a) The Uniform Franchise Offering Circular (UFOC) in accordance with the Federal Trade Commission Regulation Rule, entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures (16 CFR 436) as in effect on January 1, 1996; or

b) The disclosure requirements of the Federal Trade Commission Regulation Rule, entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures" (16 CFR 436) as in effect on January 1, 1996.

(Source: Added at 20 Ill. Reg. 584, effective JAN 0 1 1996)

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

Section 135.351 Additional Required Disclosure from Seller-Guarantors
EMERGENCY

In addition to filing the information specified in Section 5-35(b) of the Act, sellers who guarantee the business opportunity shall be required to provide the following information as an addendum to the disclosure document including a description of the nature of the guarantee, including, without limitation, the source of funds and other obligations, including contingent, off-balance sheet obligations, which, if realized, could impair the ability of the guarantor to perform.

(Source: Added at 20 Ill. Reg. 584, effective JAN 0 1 1996)

Section 135.352 Required Amendments to Disclosure Filing
EMERGENCY

In addition to filing the most current disclosure document at the time of application for registration pursuant to Section 5-30 of the Act, or for an exemption by order pursuant to Section 135.100 of this Part, sellers shall be required to amend the filing with the following information:

a) the most recent annual report of financial condition shall be due no later than the first day of the fourth month following the date of the audited financials; and

b) material changes or amendments to the information provided in the disclosure document shall be reported to the Secretary of State no later than ten business days after the seller should reasonably have known of the occurrence of such change or amendment.

(Source: Added at 20 Ill. Reg. , effective JAN 0 1 1996)

Section 135.353 Material Change
EMERGENCY

A change in the information contained in the disclosure document is material within the meaning of subsection (b) of this Section if there is a substantial likelihood that a reasonable prospective purchaser would consider it significant in making a decision to purchase or not purchase the business opportunity. Without limitation, changes that are material include:

a) any increase or decrease in the initial or continuing fees charged by the seller;

b) more than 15 percent in the number of requests for refund or rescission or other mode of termination or cancellation of business opportunities sold which were received by the seller in the most recent quarter since the effective date of the current disclosure document;

c) a change in the seller's management;

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

d) a change in the seller's or purchaser's obligations under the contract or agreement of sale or related agreements;
e) a decrease in the seller's income or net worth; and
f) additional litigation or a significant change in the status of litigation, including, without limitation:
   1) the filing of an amended complaint alleging or involving violations of any business opportunity or franchise law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or breach of contract;
   2) the entry of any injunctive or restrictive order relating to any business opportunity; or the entry of any injunction under any federal, state or Canadian business opportunity, franchise, securities, anti-trust trade regulation or trade practice law; and
   3) the entry of a judgment that has or would have any significant financial impact on the seller. Such a judgment is considered to have a significant financial impact if it equals 15 percent or more of the current assets of the seller and its subsidiaries on a consolidated basis.

(Source: Added JAN 0 1 1996 20 Ill. Reg. 584, effective JAN 0 1 1996)

Section 135.500 Minimum Net Worth Requirement
EMERGENCY

a) The minimum net worth of the seller shall at all times be at least equal to the seller's liabilities plus the aggregate of any contingent obligations represented by outstanding guarantees to purchasers of business opportunities, but not less than $25,000.
b) In lieu of the minimum net worth requirement, the seller may post a surety bond issued by a surety company authorized to do business in this State. The surety bond shall:
   1) be in an amount equivalent to the aggregate of the amount of outstanding guarantees on sales made in this State within the meaning of Section 5-80 of the Act;
   2) shall remain in effect for the duration of the guarantee(s) or representation(s) giving rise to the surety bond requirement; and
   3) shall be in favor of this State for the benefit of purchasers.
c) sale made in this State within the meaning of Section 5-80 of the Act which makes use of representations of guarantee pursuant to Section 5-5.10(a)(4) of the Act when the seller knows or reasonably should know that the guarantee is not covered or is insufficiently covered in the aggregate with other guarantees of the seller, is a per se violation of Section 5-95(3) of the Act.

(Source: Added at 20 Ill. Reg. 584, effective

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

JAN 0 1 1996)

Section 135.501 Bond Requirements
EMERGENCY

a) Report of sale subject to seller's guarantee. Sellers who or which makes use of the representation provided in Section 5-5.10(a)(4) of the Act that the purchaser will derive income from the business which exceeds the price paid to the seller, and who or which post a surety bond in lieu of the net worth requirement shall file reports of all sales in this State within ten business days after consummation of the sale.
b) Consummation of sale, for the purpose of subsection (a) of this Section shall include, without limitation:
   1) the execution of a contract of sale which binds the purchaser; or
   2) the payment of the purchase price by the agreed upon method of payment.

(Source: Added JAN 0 1 1996 20 Ill. Reg. 584, effective JAN 0 1 1996)

SUBPART D: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section 135.700 Hearings
EMERGENCY

Any hearing required pursuant to the Act or by this Part shall be held pursuant to 14 Illinois Administrative Code, Ch. I, Part 130, Subpart K: Procedures for Administrative Hearings.

(Source: Added JAN 0 1 1996 20 Ill. Reg. 584, effective JAN 0 1 1996)

SUBPART E: SERVICE OF PROCESS

Section 135.800 Service of Process upon the Secretary of State
EMERGENCY

a) Any process, notice or demand to be served upon the Secretary of State under the Act shall be made by delivering personally to the Securities Director, or any employee of the Securities Department designated by the Securities Director to accept such service on behalf of the Secretary of State, or by sending by registered mail or certified mail, return receipt requested, a copy of the process, notice or demand to the Securities Department. Procedures for service are specified in the Act in the following Sections:
   1) Service upon any person who has filed a consent to service of process upon the Secretary of State under the Act, Section

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

5-80(e) of the Act; and

2) Service upon any person who, by virtue of having offered, sold or delivered a business opportunity in this State which are neither registered nor covered by an exemption from registration, shall have appointed the Secretary of State as agent for service of process, Section 5-80(e) of the Act.

b) Service of any process, notice or demand under this Section shall be made with the Springfield office of the Securities Department during regular business hours as specified in Section 135.2100 of this Part.

c) At the time of any service upon the Secretary of State pursuant to Section 5-80(e) of the Act, there shall be paid a fee in the amount specified in Section 135.2110 of this Part, which shall not be returnable in any event. Each process, notice or demand shall be submitted with a separate payment.

d) The Securities Department shall keep a record of all the processes, notices and demands received by it, which shall show the date of service.

(Source: Added at 20 Ill. Reg. 584, effective JAN 0 1 1996)

Section 135.801 Scope of the Law
EMERGENCY

The registration and disclosure requirements under the Act shall apply only to the offer or sale of a business opportunity in this State to a purchaser who is domiciled in this State, or where the offer of the business opportunity is made or accepted in this State and the business opportunity is or will be located in this State.

(Source: Added at 20 Ill. Reg. 584, effective JAN 0 1 1996)

SUBPART F: VIOLATIONS

Section 135.950 Fraudulent Practices
EMERGENCY

It shall be a violation of Section 5-95 of the Act for any person, in connection with the offer or sale of any business opportunity in this State sold pursuant to the exemptions granted under Section 5-10(a), (c) or (d), directly or indirectly:

a) to employ any device, scheme or artifice to defraud;

b) to make any untrue statement of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

c) to engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

(Source: Added at 20 Ill. Reg. 584, effective JAN 0 1 1996)

SUBPART G: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section 135.1300 Request for Non-Binding Statements
EMERGENCY

a) Required information and format.

1) All requests for non-binding statements shall be in writing and be accompanied by the fee set forth in Section 135.2110 of this Part. The request shall be filed with the Securities Department and shall contain the following:

A) A brief summary of the Sections of the Act and of this Part to which the request pertains;

B) A detailed factual representation concerning every relevant aspect of the proposed transaction, such as names of affected parties, type and description of business opportunity, details regarding the transactions, each claim of exemption, if any, and reasoning in support of each such claim. Requests should be limited to the particular situation, and should not attempt to include every possible type of situation which may arise in the future;

C) A discussion of current statutes, rules and legal principles relevant to the facts set forth;

D) A statement setting forth the person's own opinion in the matter and the basis for such opinion; and

E) A representation that the transaction in question has not been commenced and will not commence for at least 30 days.

2) The Securities Department will not respond to requests for non-binding statements involving the anti-fraud provisions of the Act or the Rules thereunder.

3) The Securities Department will not respond to requests for non-binding statements with respect to transactions which have already taken place.

4) The Securities Department will not respond to requests based upon hypothetical facts or involving unnamed parties.

b) Review procedure under the Act.

After a review of the relevant facts are presented, in light of existing judicial, legislative and administrative history, the Securities Department may issue its finding as to the applicability of the Act to the situation presented in the form of a non-binding statement stating that it will recommend that no enforcement action be initiated against the parties involved if all the facts are true and complete. Facts or conditions different than those presented may require different conclusions and persons other than those requesting the statement should not rely on the statement.

c) Availability of non-binding statements issued by the Department.
   1) The Securities Department will maintain an index by statutory Section(s) involving all non-binding statements issued.
   2) Copies of such statements may be reviewed in the Securities Department's Springfield office and copies thereof obtained upon payment of the cost of duplication as set forth in Section 135.2110 of this Part.

(Source: Added at 20 Ill. Reg. 584, effective JAN 01 1996)

SUBPART H: PUBLIC INFORMATION

Section 135.1400 Inspection of Business Opportunity Records
EMERGENCY

Records of all registered business opportunities are available for public inspection during the business hours at the Springfield office of the Securities Department of the Secretary of State upon written request.

(Source: Added at 20 Ill. Reg. , effective JAN 01 1996)

Section 135.1401 Non-Public Distribution of Information
EMERGENCY

Information or documents obtained by employees of the Secretary of State in the course of any examination or investigation pursuant to Section 5-60 of the Act shall, unless made a matter of public record, be deemed confidential. Employees are hereby prohibited from making such confidential information or documents or any other non-public records of the Secretary of State available to anyone other than an employee of the Secretary of State, or other governmental agency, unless the Secretary of State authorizes the disclosure of such information or the production of such documents as not being contrary to the public interest.

(Source: Added at 20 Ill. Reg. 584, effective JAN 01 1996)

SUBPART I: RULES OF GENERAL APPLICATION

Section 135.2100 Business Hours of the Securities Department
EMERGENCY

a) The principal office of the Securities Department at Lincoln Tower, 520 South Second Street, Suite 200, Springfield, Illinois 62701, is open each day, except Saturdays, Sundays and holidays, from 8:00 a.m. to 4:30 p.m. Central Standard Time or Central Daylight Savings Time,

whichever is currently in effect in Springfield.

b) An office of the Securities Department at 17 North State Street, Suite 1100, Chicago, Illinois 60601 is open each day, except Saturdays, Sundays and holidays, from 8:30 a.m. to 5:00 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Chicago.

(Source: Added at 20 Ill. Reg. 584, effective JAN 01 1996)

Section 135.2101 Computation of Time
EMERGENCY

The time within which an act under the Act shall be done shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday or holiday as defined or fixed in any Statute now or hereafter in force in this State, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday is also a Saturday, Sunday or holiday, then such succeeding day shall also be excluded.

(Source: Added at 20 Ill. Reg. , effective JAN 01 1996)

Section 135.2110 Payment of Fees
EMERGENCY

a) Fees under the Act are as follows:

Section 5-10	
Order of Exemption/Filing Fee	$300
Section 5-30	
Initial Disclosure Document Filing Fee	$300
Section 5-30(e)	
Renewal Filing Fee	$300
Renewal Late Fee	$100
Fee to Report a Material Change to Required Disclosure pursuant to Section 135.352(b) of this Part	$25
Section 5-75	
Non-Binding Statement	$75
Section 5-80	

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

Service of Process (when served upon the Secretary)	$10
Certificate	$10
Certified Copy of Document	$10 plus
Each Page Certified	$ .50
Duplication of Documents each page duplicated	$ .50
Additional fee for payment of fee returned to the Securities Department due to insufficient funds or for a similar reason	$50

b) All payments of fees shall be made by check, money order, United States postal money order, certified check, bank cashier's check, bank money order or indicia of forms of electronic transfer of funds payable to the "Secretary of State". No third party check or money order endorsed over to the Secretary of State shall be accepted as payment of any fee.

c) Any person whose payment of fees is returned to the Securities Department due to insufficient funds or for a similar reason shall pay to the Secretary of State the amount of fee owed plus an additional fee as set forth in this Section for each payment returned. This fee shall include the fee required by 5 ILCS 290/10, as defined in Section 140.50 of this Part.

d) The Secretary of State shall require any person to make payment of fees in the form of a United States postal money order, certified check, bank cashier's check or bank money order if any previous payment of fees has been returned to the Securities Department due to insufficient funds or for a similar reason.

(Source: Added at 20 Ill. Reg. 584, effective JAN 01 1996)

Section 135.2120 Place of Filing
EMERGENCY

All applications for registration or exemption from registration and other papers filed with the Securities Department or the Secretary of State pursuant to the Act shall be filed at Springfield, Illinois. Such material may be filed by delivery to the Securities Department, through the mail or otherwise.

(Source: Added at 20 Ill. Reg. 584, effective JAN 01 1996)

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

Section 135.2130 Date of Filing
EMERGENCY

a) The date of filing of any document required to be filed with the Securities Department shall be the date of delivery of the document and any required fee to the Securities Department in Springfield, Illinois, as specified in Section 135.2120 of this Part, or if a document or fee is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Postal Service of such registration, certification or certificate shall be considered competent evidence that the document or fee was mailed on the date shown on the record.

b) A document may not be deemed to be filed with the Secretary of State unless all requirements of the Act with respect to such filing have been complied with and the required fee has been paid.

(Source: Added at 20 Ill. Reg. 584, effective JAN 01 1996)

Section 135.2140 Requirements as to Proper Form
EMERGENCY

Any document filed with the Securities Department pursuant to the Act shall be prepared in accordance with the form, if any, prescribed therefor by the Securities Department as in effect on the date of filing. Any such document shall be deemed to be filed on the proper form unless objection to the form is made by the Securities Department.

(Source: Added at 20 Ill. Reg. 584, effective JAN 01 1996)

Section 135.2141 Additional Information
EMERGENCY

In addition to the information expressly required to be included in an application for registration, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

(Source: Added at 20 Ill. Reg. 584, effective JAN 01 1996)

Section 135.2143 Information Unknown or Not Reasonably Available
EMERGENCY

Information required need be given only insofar as it is known or reasonably available to the registrant. If any required information is unknown and not reasonably available to the registrant, either because the obtaining thereof

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the registrant, the information may be omitted, subject to the following conditions:

a) The registrant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof.

b) The registrant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to the person for the information.

(Source: Added at 20 Ill. Reg. 584, effective JAN 01 1996)

Section 135.2144 Requirements as to Paper, Printing, and Language
EMERGENCY

a) Application for registration shall be filed on good quality, unglazed, white paper, 8 1/2 by 11 inches in size, insofar as practicable. However, tables, charts, maps, and financial statements may be on larger paper, if folded to that size, and the prospectus may be on smaller paper, if the registrant so desires, but not less than 7 1/2 by 9 inches in size.

b) The application for registration and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the application or any portion thereof may be prepared by any similar process which, in the opinion of the Secretary of State, produces copies suitable for permanent record. Irrespective of the process used, all copies of the material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated to be clearly distinguishable as such on photocopies.

c) The application for registration shall be in the English language. If any exhibit or other paper or document filed with the application for registration is in a foreign language, it shall be accompanied by a translation into the English language.

(Source: Added at 20 Ill. Reg. 584, effective JAN 01 1996)

Section 135.2145 Number of Copies--Signatures
EMERGENCY

a) One copy of the completed application for registration, manually signed by the applicant, including exhibits and all other papers and documents filed as a part of the application, shall be filed with the

SECRETARY OF STATE

NOTICE OF EMERGENCY RULES

Secretary of State.

b) If any name is signed to the application for registration pursuant to a power of attorney, copies of the power of attorney shall be filed with the application for registration. In additional, if the name of any officer signing on behalf of the applicant, or attesting the applicant's seal, is signed pursuant to a power of attorney, certified copies of a resolution of the applicant's board of directors authorizing the signature shall be filed with the application for registration.

(Source: Added JAN 01 1996 20 Ill. Reg. 584, effective)

Section 135.2190 Provisions for Granting of Variance from Rules
EMERGENCY

The Secretary of State or his or her designee may grant variances from these Rules in individual cases where he determines that:

a) the provision from which the variance is granted is not statutorily mandated;

b) no party will be injured by granting the variance; and

c) the Rule from which the variance is granted would, in the particular case, be unnecessarily burdensome.

(Source: Added JAN 01 1996 20 Ill. Reg. 584, effective)

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

1) Heading of the Part: Regulations under the Illinois Business Brokers Act of 1995.

2) Code Citation: 14 Ill. Adm. Code 140

3)

Section Numbers:	Emergency Action:
140.50	New
140.51	New
140.100	New
140.120	New
140.300	New
140.301	New
140.302	New
140.303	New
140.304	New
140.400	New
140.750	New
140.800	New
140.801	New
140.802	New
140.803	New
140.804	New
140.805	New
140.806	New
140.807	New
140.808	New
140.1000	New
140.1200	New
140.2100	New
140.2101	New
140.2110	New
140.2120	New
140.2130	New
140.2140	New
140.2141	New
140.2142	New
140.2143	New
140.2144	New
140.2145	New
140.2190	New

4) Statutory Authority: 815 ILCS 307

5) Effective Date of Rule (s): January 1, 1996

6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: N/A

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

7) Date Filed in Agency's Principal Office: December 22, 1995

8) Reason for Emergency: The Act creates regulation of Business Brokers in the State of Illinois. The Act provides for the registration of Business Brokers effective January 1, 1996.

The Department through the legislative process worked with all known entities through the Secretary of State's Securities Advisory Committee, industry associations and law firms. A copy of the Act, emergency rules and registration forms have been mailed to industry groups and any other person requesting copies.

9) A Complete Description of the Subjects and Issues Involved:

Section 140.050 - Added to define the scope of the Law.

Section 140.051 - Added to define terms used in the Act and Rules.

Section 140.100 - Added to lay out procedures for registration.

Section 140.120 - Added to lay out procedures for withdrawing pending application or terminating registration.

Section 140.300 - Added to define when disclosure statement is required.

Section 140.301 - Added to define purpose of disclosure and compliance.

Section 140.302 - Added to clarify contents of disclosure statement.

Section 140.303 - Added to define providing the contract with the disclosure statement.

Section 140.304 - Added to define providing the contract to clients.

Section 140.400 - Added to define procedures for Hearings.

Section 140.750 - Added to define records required of Business Brokers.

Section 140.800 - Added to define previous and ongoing contracts and transactions not affected.

Section 140.801 - Added to define burden of proof.

Section 140.802 - Added to define exemption for franchises.

Section 140.803 - Added to define exemptions for waiting period.

Section 140.804 - Added to define exemption for attorneys.

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

Section 140.805 - Added to define exemption for certified public accountants.

Section 140.806 - Added to define persons exempt from Act and Regulations.

Section 140.807 - Added to define transactions exempt from the Act and Regulations.

Section 140.808 - Added to define exemption for Real Estate Brokers and Real Estate Salespersons.

Section 140.1000 - Added to define procedure for Service of Process.

Section 140.1200 - Added to define procedure for request for non-binding statements.

Section 140.2100 - Added to define business hours of Securities Department.

Section 140.2101 - Added to define computation of time.

Section 140.2110 - Added to define payment of fees.

Section 140.2120 - Added to define place of filing.

Section 140.2130 - Added to define date of filing.

Section 140.2140 - Added to define requirements as to proper form.

Section 140.2141 - Added to define additional information.

Section 140.2143 - Added to define information unknown or not reasonably available.

Section 140.2144 - Added to define requirements as to paper, printing and language.

Section 140.2145 - Added to define number of copies -- signatures.

Section 140.2190 - Added to define provisions for granting variances from Rules.

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objectives: To enact by emergency the provisions of the Illinois Business Brokers Act of 1995.

12) Information and questions regarding this rule shall be directed to:

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

Michael A. Chizmar
Lincoln Tower, Suite 200
520 South Second Street
Springfield, IL 62701
(217) 782-2256

The full text of the Emergency Rulemaking begins on the next page:

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATE

PART 140
REGULATIONS UNDER THE ILLINOIS BUSINESS BROKERS ACT OF 1995

SUBPART A: DEFINITIONS

Section
140.50 Scope of the Law
EMERGENCY
140.51 Definitions of Terms Used in the Act and the Rules
EMERGENCY

SUBPART B: REGISTRATION OF BUSINESS BROKERS

Section
140.100 Procedures for Registration as a Business Broker Under Section 10-10 of the Act
EMERGENCY
140.120 Procedures for Withdrawal of Pending Application or Termination of Registration as a Business Broker
EMERGENCY
140.300 When Disclosure Statement Must Be Provided
EMERGENCY
140.301 Purpose of Disclosure; Substantial Compliance
EMERGENCY
140.302 Contents of Disclosure Statement
EMERGENCY
140.303 Providing the Contract With the Disclosure Statement
EMERGENCY
140.304 Providing the Contract to Client
EMERGENCY

SUBPART C: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section
140.400 Hearings
EMERGENCY

SUBPART D: RECORDS

Section
140.750 Records Required of Business Brokers
EMERGENCY

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

SUBPART E: EXEMPTIONS

Section
140.800 Previous and Ongoing Contracts and Transactions not Affected
EMERGENCY
140.801 Burden of Proof
EMERGENCY
140.802 Franchises
EMERGENCY
140.803 Exemptions from Waiting Period and Disclosure Requirements Pursuant to Section 10-30 of the Act
EMERGENCY
140.804 Exemption for Attorneys
EMERGENCY
140.805 Exemption for Certified Public Accountants
EMERGENCY
140.806 Persons Exempt from the Act and Regulations
EMERGENCY
140.807 Transactions Exempt from the Act and Regulations
EMERGENCY
140.808 Real Estate Brokers and Real Estate Salespersons -- Services Incidental to a Real Estate Brokerage Agreement
EMERGENCY

SUBPART F: SERVICE OF PROCESS

Section
140.1000 Service of Process upon the Secretary of State
EMERGENCY

SUBPART G: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section
140.1200 Request for Non-Binding Statements
EMERGENCY

SUBPART H: RULES OF GENERAL APPLICATION

Section
140.2100 Business Hours of the Securities Department
EMERGENCY
140.2101 Computation of Time
EMERGENCY
140.2110 Payment of Fees
EMERGENCY
140.2120 Place of Filing
EMERGENCY
140.2130 Date of Filing

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

EMERGENCY
140.2140 Requirements as to Proper Form
EMERGENCY
140.2141 Additional Information
EMERGENCY
140.2142 Additional Exhibits
EMERGENCY
140.2143 Information Unknown or Not Reasonably Available
EMERGENCY
140.2144 Requirements as to Paper, Printing, and Language
EMERGENCY
140.2145 Number of Copies -- Signatures
EMERGENCY
140.2190 Provisions for Granting of Variance from Rules
EMERGENCY

AUTHORITY: Implementing and authorized by the Illinois Business Brokers Act of 1995 [815 ILCS 307].

SOURCE: Adopted by emergency rulemaking at 20 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days

SUBPART A: DEFINITIONS

Section 140.50 Scope of the Law
EMERGENCY

The Illinois Business Broker Act of 1995 [815 ILCS 307] shall apply and only apply when the person engaged or sought to be engaged by the business broker is domiciled in this State or, if the person is not a natural person, has its principal place of business in this State.

Section 140.51 Definitions of Terms Used in the Act and the Rules
EMERGENCY

a) As used in the Act and this Part, unless the context otherwise requires, the term:

"Act or Law" means the Illinois Business Brokers Act of 1995 [815 ILCS 307];

"Advertising" means any circular, prospectus, advertisement, or other material or any communication by radio, television, pictures or similar means used in connection with an offer or sale of any business;

"Affiliate" of, or a person "affiliated" with a specified person means a person who, directly or indirectly through one or more

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

intermediaries, controls, or is controlled by, or is under common control with, the person specified;

"Applicant" means the person making application for registration;

"Branch Office":

Branch office means any office, residence, or other place or location in this State where the business of a registered business broker is being conducted and which is owned or controlled by, or operated directly, or indirectly for the benefit of, the registered business broker and where the business of the business broker is conducted by a principal, agent, or employee for such registered business broker.

The principal office located in this State of the registered business broker shall not be considered a branch office.

Except as otherwise provided in this subparagraph (b) of this Section, for purposes of this Section, each office, residence, or other place or location where business is being conducted in this State on behalf of a registered business broker shall be considered a branch office for the registered business broker.

"Business Broker" is any person that engages in any of the actions specified in Section 10-5.10 of the Act for compensation, except a person who is selling a business owned or operated by that person in a one time transaction.

"Client" means any person who has signed a business broker agreement which provides for such person to be represented by the business broker and obligating that person to compensate the business broker under some circumstance.

"Date of Filing" means the date that all of the required documents are received by the Securities Department and all the required fees are paid to the Secretary of State. A document shall not be deemed to be filed if any information required by the Act is omitted or the document is illegible.

"Director" means any director of a corporation or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

"Dominant Element of a Transaction" as used in Section 10-5.5 and Section 10-80(a)(2) of the Act means any transaction in which (1) 50% of the purchase price or 50% of the net asset value of the business being sold is real estate; or (2) real estate is an integral part of the business being sold. The percentage of the transaction made up of the purchase price or net asset value of

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

the real estate shall be based upon the reasonable expectation of the person potentially acting as a business broker and the client at the time the brokerage contract or agreement for services is entered into; or (3) real estate is the single largest part of the transaction.

"Employee" does not include a director, trustee, or officer.

"Federal Banking Act of 1933" means the Federal Banking Act of 1933 (12 U.S.C. 227), and the Rules and Regulations thereunder as in effect on July 1, 1989.

"Hearing" means a proceeding conducted by the Securities Department in which the rights, privileges, immunities, duties or obligations of any person or party are required by law to be determined by the Secretary of State only after opportunity for a hearing.

"Material" when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which there is a substantial likelihood that a reasonable person would consider it important.

"Offer or Offer to Sell" includes every attempt to dispose of a business for value or solicitation of an offer to purchase a business.

"Officer" means the president; any vice president in charge of a principal business unit, division or function; the secretary; the treasurer; any principal financial officer, comptroller or principal accounting officer; any other officer performing a principal policy-making function and any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

"Ongoing Business" means an existing business that, for at least six months prior to the offer, has been operated from a specific location, has been open for business to the general public and has substantially all of the equipment and supplies necessary for operating the business.

"Principal" means any officer, director, partner, member, trustee, or manager of such business broker who is responsible for the supervision and management of the daily business operations in this State of such business broker.

"Proposed Client" means any person who signs and has received a disclosure statement.

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

"Purchaser" means a person who enters into a contract or agreement for the acquisition of a business or a person to whom an offer to sell a business is directed.

"Real Estate" means and includes leaseholds, as well as any other interest or estate in land, whether corporeal, in corporeal, freehold or non-freehold, and whether the real estate is situated in Illinois or elsewhere.

"Rules" refers to all rules adopted by the Secretary of State pursuant to the Act.

"Sale or Sell" means every contract or agreement of sale, contract to sell, or the disposition of a business or interest in a business for value.

"Secretary of State" means the Securities Department of the Office of the Illinois Secretary of State or the Secretary of State or the Securities Director, or his or her designee, as the case may be.

"Section" refers to a Section of this Part unless a reference to the Act is specifically made.

"Seller" means a person who sells or offers to sell a business or any agent or person who directly or indirectly acts on behalf of such person, except that a person acting as a business broker is neither a seller or buyer.

b) A Section of this Part which defines a term without express reference to the Act or to this Part or to a portion thereof or hereof defines such term for all purposes as used both in the Act and in this Part. Terms defined in the Act and not defined in this Part have the meanings given them in the Act.

SUBPART B: REGISTRATION OF BUSINESS BROKERS

Section 140.100 Procedures for Registration as a Business Broker Under Section 10-10 of the Act
EMERGENCY

No person shall be registered as a business broker unless such person submits a completed application as set forth in this Section.

a) Each applicant for registration as a business broker shall file with the Securities Department a completed and current application on Illinois Form BB01 and pay to the Securities Department all appropriate fees as specified in Section 140.2110 of this Part. The application shall be accompanied by the following:

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

1) A Consent to Service of Process for the applicant on Illinois Form 10, unless the applicant is a corporation organized or authorized to transact business under the laws of this State;
2) The disclosure document required under Section 10-30(b) of the Act or Section 10-30(b)(1) of the Act and 140.302 or 140.303 of this Part (no contract need accompany the statement);

b) Upon the grant of registration of a business broker, the Securities Department shall issue to the business broker proof of registration as evidence of such registration;

c) The application and documents on file with the Securities Department with respect to the business broker shall be amended from time to time whenever a change occurs which renders the information contained therein not accurate in any material respect. Such amendment shall be filed with the Securities Department within ten business days after the occurrence of the change; and

d) Information submitted in applications for registration or renewal which is personal in nature shall be treated as confidential. In addition, an applicant may request that certain information in its application be kept confidential. The Securities Department shall honor such request if the information is personal in nature or if public access to the information is not reasonably necessary to further the purposes of the Act.

Section 140.120 Procedures for Withdrawal of Pending Application or Termination of Registration as a Business Broker
EMERGENCY

If a pending business broker elects to withdraw its application prior to registration in this State, or if a registered business broker wishes to terminate its registration in this State, it shall provide written notice to the Securities Department indicating such intent. Any fees paid shall not be returnable in any event.

Section 140.300 When Disclosure Statement Must Be Provided
EMERGENCY

a) Except as provided in Section 140.803 of this Part, a business broker shall provide a disclosure statement consistent in all material respects with this Section to any client or prospective client at least seven days before the earlier of:
   1) The time such client or prospective client signs a contract for the services of the business broker; or
   2) The time the business broker receives any consideration upon the contract.

b) As used in this Part and in the Act, the term "client" does not include a person who is under no obligation to compensate the business broker under any circumstances.

c) The Secretary of State recommends that business brokers have each client and prospective client sign and date an acknowledgment of receipt when the disclosure statement is provided.

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

Section 140.301 Purpose of Disclosure; Substantial Compliance
EMERGENCY

a) The Secretary of State has determined that the disclosure statement and waiting period requirements of the Act should be interpreted and enforced so as to further the objective of the Act. That objective is to ensure that clients and potential clients of business brokers have full disclosure of the material terms in the business broker's contract with the client, have an opportunity to review those terms and, if the client wishes, have an attorney review the contract.

b) Where a business broker has reasonably tried to comply with the provisions of this Part, such broker shall be deemed to have complied with Section 10-30 of the Act if the client or prospective client has been provided with all material information required by this Part and has had a full opportunity to review and consider the information, to review the business broker's contract, and to have the business broker's contract reviewed by an attorney.

Section 140.302 Contents of Disclosure Statement
EMERGENCY

The disclosure statement shall contain the following information:

a) Nothing except the following language in at least 10-point boldface capital letters shall appear on the cover page:
   1) *Disclosures required by law;*
   2) *The Secretary of State has not reviewed and does not approve, recommend, endorse or sponsor any business brokerage contract. The information contained in this disclosure has not been verified by the Secretary of State; and*
   3) *If you have any questions, see an attorney before you sign a contract or agreement.*

b) On the following pages, the information substantially as set forth in Section 10-30(b) of the Act shall be provided including:
   1) The name and form of organization of the business broker, the names under which the business broker has done, is doing, or intends to do business, and the name of any parent organization or affiliate of the broker;
   2) The names, addresses, and titles of the business broker's officers, directors, trustees, general partners, general managers, principal executives, and any other person performing similar duties;
   3) A full and detailed description of the actual services that the business broker undertakes to perform for the prospective client; and
   4) A specific statement of the circumstances under which the

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

business broker will be entitled to obtain or retain consideration from the party with whom the business broker contracts.

c) The information in (b)(3) and (b)(4) of this Section need not be set out on the disclosure statement if the business broker's contract is provided with the disclosure statement.

Section 140.303 Providing the Contract With the Disclosure Statement
EMERGENCY

a) Because the purpose of the disclosure statement is to provide full information about the material terms of the business broker's contract with the client, the Secretary of State encourages business brokers to include a copy of the contract with the disclosure statement. When the contract is provided to the client with the disclosure statement, the disclosure statement does not have to contain either:
   1) the full and detailed description of the actual services that the business broker undertakes to perform; or
   2) a specific statement of the circumstances under which the business broker will be entitled to obtain or retain consideration from the party with whom the business broker contracts.

b) The following is an example of page one, if prepared as follows will, if accurate in all material respects, be deemed to comply with the Act (important: nothing except the following shall appear on the cover page):
   1) *Disclosures required by law;*
   2) *The Secretary of State has not reviewed and does not approve, recommend, endorse or sponsor any business brokerage contract. The information contained in this disclosure has not been verified by the Secretary of State; and*
   3) *If you have any questions, see an attorney before you sign a contract or agreement.*

c) The following is an example of page two:

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

The information regarding the Business Broker's organization, principals, services and fees is being provided in this Disclosure Statement pursuant to the Illinois Business Brokers Act of 1995 (815 ILCS 307/10-30(b)).

THE BUSINESS BROKER CONTRACT (OR FEE AGREEMENT) IS PROVIDED WITH THIS DISCLOSURE STATEMENT AND IS AN INTEGRAL PART OF THIS DISCLOSURE STATEMENT.
READ BOTH THIS DISCLOSURE STATEMENT AND THE CONTRACT OR AGREEMENT CAREFULLY. YOU ARE ENCOURAGED TO HAVE THE CONTRACT OR AGREEMENT REVIEWED BY AN ATTORNEY.

Organization

Organization Name: _____ Type: _____

Business Name (if different): _____

Address: _____

_____

Name(s) Under which Business Broker Has Done Business: _____

_____

_____

Parents/Affiliates: _____

List of Business Broker's officers, directors, trustees, general partners, general managers, principal executives and others performing similar duties:

President: _____ Address: _____

Vice President: _____ Address: _____

Principal: _____ Address: _____

Services

The actual services that the Business Broker undertakes to perform are set forth in the Business Broker Contract (or Fee Agreement). Those are the only services that the Business Broker is obligated to provide.

Client's Obligations

The circumstances under which you will be obligated to pay the Business Broker (or the Business Broker will be permitted to retain money you have paid) are set forth in the Business Broker Contract (or

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

Fee Agreement). READ THE CONTRACT OR AGREEMENT CAREFULLY.

CLIENT ACKNOWLEDGMENT:

I received this Disclosure Statement and a copy of the Business Broker Contract (or Fee Agreement) on the date set forth below.

Date: _____ Client Signature: _____
Name (printed): _____

Section 140.304 Providing the Contract to Client
EMERGENCY

The client shall have the right to retain a copy of the signed contract for the services of a business broker. The client's copy of the contract shall be provided to the client when the contract is signed, if that is reasonably feasible and the client so requests. Otherwise, the contract shall be mailed or otherwise sent to the client within one week of the signing. No account number is required on the client's copy of the contract.

SUBPART C: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section 140.400 Hearings
EMERGENCY

Any hearing required pursuant to the Act or by this Part shall be held pursuant to 14 Illinois Administrative Code, Ch. I, Part 130, Subpart K: Procedures for Administrative Hearings.

SUBPART D: RECORDS

Section 140.750 Records Required of Business Brokers
EMERGENCY

a) Each business broker agreement shall be given a unique identifying account number and all instruments taken in connection with that agreement must bear this number. Every business broker registered by the Secretary of State shall keep and maintain for a period of six years in the business broker's principal office the following records set out in this Section:
   1) A business broker agreement register that consists of a chronological listing of all business broker agreements that have been entered into. For each business broker agreement the register shall contain the following:
      A) The account number;
      B) The date of the agreement;
      C) The name of the client or proposed client;
      D) The amount of any fees charged; and

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

      E) The cost and type of any insurance required.
   2) A file for each client or proposed client shall contain the following:
      A) The name, address, and telephone number of the client or proposed client, as defined in Section 140.51 of this Part;
      B) A copy of the signed business broker agreement;
      C) A copy of any other papers or instruments used in connection with the business broker agreement that are signed by the client or proposed client, including a copy of the disclosure document required by Section 10-30 of the Act that contains an acknowledged receipt by the client or proposed client; and
      D) The amount of the business broker's fee that the client has paid. If there is an unpaid balance, the status of any collection efforts.
   3) All receipts from or for the account of clients or proposed clients and all disbursements to or for the account of clients or proposed clients, recorded so that the transactions are readily identifiable.
   4) A general ledger that shall be posted at least monthly, and a trial balance sheet and profit and loss statement prepared within 30 days after the Secretary of State's request for information.
   5) A copy of the following:
      A) All advertisements, pamphlets, circulars, letters, articles or communications published in any newspaper, magazine or periodical which discuss the business broker, business broker agreement(s), or any business represented by the business broker;
      B) Scripts of any recording, radio or television announcement which discuss the business broker, business broker agreement(s), or any business represented by the business broker; and
      C) Any sales kit or literature used or to be used in solicitation of clients.

b) Every registered business broker shall preserve during the life of the enterprise and of any successor enterprise all partnership agreements, certificates or articles or, in the case of a corporation, all articles of incorporation or charter, minute books and stock certificate books.

c) After a record or other documents have been preserved for two years, an accurate copy on any form of information retrieval device may be substituted for the balance of the required time.

d) Every business broker registered by the Secretary of State shall maintain within this State, in an easily accessible place, all records required by this Section. All records required to be maintained under this Section must be separate or readily identifiable from the records of any other business that is conducted in the office of the business broker. A written request for the waiver of the provisions of this

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

Section may be made to the Secretary of State to permit any registered business broker to maintain any of the records required by this Section, in some place other than the State of Illinois. In determining whether or not the provisions of this Section should be waived, the Secretary of State shall consider among other things, whether the main office of the business broker is in a place outside the State of Illinois or whether the business broker uses all or some of the bookkeeping facilities of some other business broker whose main office is outside the State of Illinois.

SUBPART E: EXEMPTIONS

Section 140.800 Previous and Ongoing Contracts and Transactions not Affected
EMERGENCY

All business broker agreements and transactions between a business broker and its clients or proposed clients which do not comply with the Act or this Part, if entered into prior to January 1, 1996, are valid and enforceable, notwithstanding this Part or the Act.

Section 140.801 Burden of Proof
EMERGENCY

In any administrative, civil, or criminal proceeding related to the Act, the burden of proving an exemption, an exception from a definition or an exclusion from the Act is upon the person claiming it.

Section 140.802 Franchises
EMERGENCY

Persons registered pursuant to the Illinois Franchise Disclosure Act of 1987 [815 ILCS 705] (and their employees) are exempt from the requirements of the Act as to offers and sales in connection with such franchising activities.

Section 140.803 Exemptions from Waiting Period and Disclosure Requirements Pursuant to Section 10-30 of the Act
EMERGENCY

The requirements that a business broker provide a written disclosure statement and wait at least seven days before the client signs a contract with the business broker or before the business broker receives any consideration upon the contract shall not apply if:

a) The client to be represented by the business broker is or has had:
   1) A natural person who has, or is reasonably believed by the business broker relying upon this Section to have, a net worth or joint net worth with that person's spouse in excess of $1,000,000 at the time of the execution of the business broker agreement; or
   2) A natural person who has, or is reasonably believed by the business broker relying upon this Section to have, an income or joint income with that person's spouse in excess of $200,000 in the most recent fiscal year; or
   3) A person who is not a natural person who has, or is reasonably believed by the business broker relying upon this Section to have, a net asset value in excess of $1,000,000 and has been in existence for at least nine months and was not formed for the purposes of this transaction; or
   4) A person who is not a natural person who has, or is reasonably believed by the business broker relying upon this Section to have, gross revenue sales in excess of $1,000,000 in the most recent fiscal year and has been in existence for at least nine months and was not formed for the purposes of this transaction; or
   5) A person who is not a natural person in which at least 90% of the equity interest is owned, or is reasonably believed by the business broker relying upon this Section to be owned, by persons who meet any of the tests set forth in subsections (a)(1), (2), (3) or (4) of this Section; or
   6) An attorney review the business broker's contract.
b) A business broker shall be entitled to rely upon a statement signed by the client or prospective client that:
   1) the client is in one of the categories enumerated in subsections (a)(1) through (a)(5) of this Section; or
   2) that the client had an attorney review the business broker's contract with the client.

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

Section 140.804 Exemption for Attorneys
EMERGENCY

Section 10-80(a)(1) of the Act only applies to any attorney who is licensed to practice in Illinois, while engaged in the practice of law and whose service in relation to the business broker transaction is incidental to his or her practice.

Section 140.805 Exemption for Certified Public Accountants
EMERGENCY

Any certified public accountant licensed to practice in Illinois, while engaged in the practice as a certified public accountant and whose service in relation to the business broker transaction is incidental to his or her practice is exempt from the requirements of the Act.

Section 140.806 Persons Exempt from the Act and Regulations
EMERGENCY

The following persons are exempt from the requirements of the Act and of this Part:

a) Any person who is selling a business owned or operated (in whole or in part) by that person in a one time transaction;
b) Any person licensed to engage in business as a real estate broker or salesperson in Illinois while rendering services in the ordinary course of a transaction in which a license as a real estate broker or salesperson is required, provided that:
   1) real estate is the dominant element, as defined in Section 140.51 of this Part, of the transaction; or
   2) such person reasonably believed that real estate would be the dominant element, as defined in Section 140.51 of this Part, of the transaction at the time such person was engaged by the client.
c) Such persons enumerated in Section 10-80(a)(3) of the Act; and
d) Any financial institutions listed in Section 10-80(b) of the Act.

Section 140.807 Transactions Exempt from the Act and Regulations
EMERGENCY

The following transactions are not covered by the Act and this Part:
a) Any sale or purchase of a business (or any interest therein) where the transaction is a securities transaction involving securities subject to the Illinois Securities Law of 1953, as amended [815 ILCS 5]; or
b) Any sale or purchase of a business (or any interest therein) wherein the sale or exchange of real estate is the dominant element, as defined in Section 140.51 of this Part, of the transaction.

Section 140.808 Real Estate Broker and Real Estate Salesperson -- Service Incidental to a Real Estate Brokerage Agreement
EMERGENCY

Any real estate broker or real estate salesperson who has entered into a brokerage agreement, as defined in the Illinois Real Estate License Act, [225 ILCS 455], and whose service in relation to the business broker transaction is incidental to the performance of the brokerage agreement and is exempt from the requirements of the Act.

SUBPART F: SERVICE OF PROCESS

Section 140.1000 Service of Process upon the Secretary of State
EMERGENCY

a) Any process, notice or demand to be served upon the Secretary of State under the Act shall be made by delivering personally to the Securities Director, or any employee of the Securities Department designated by the Securities Director to accept such service on behalf of the Secretary of State, or by sending by registered mail or certified mail, return receipt requested, a copy of the process, notice or demand to the Securities Department. Procedures for service are

specified as follows:
   1) Service upon any person who has filed a consent to service of process upon the Secretary of State;
   2) Service upon any person who, by virtue of acting as a business broker in this State which are neither registered nor covered by an exemption from registration, shall have appointed the Secretary of State as agent for service of process; and
   3) Service of a copy of a complaint in a private civil action.
b) Service of any process, notice or demand under this Section shall be made with the Springfield office of the Securities Department during regular business hours as specified in Section 140.2100 of this Part.
c) At the time of any service upon the Secretary of State there shall be paid a fee in the amount specified in Section 140.2110 of this Part, which shall not be returnable in any event. Each process, notice or demand shall be submitted with a separate payment.
d) The Securities Department shall keep a record of all the processes, notices and demands received by it, which shall show the date of service.

SUBPART G: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section 140.1200 Request for Non-Binding Statements
EMERGENCY

a) Required information and format.
   1) All requests for non-binding statements shall be in writing and be accompanied by the fee set forth in Section 140.2110 of this Part. The request shall be filed with the Securities Department and shall contain the following:
      A) A brief summary of the Sections of the Act and of the Rules to which the request pertains;
      B) A detailed factual representation concerning every relevant aspect of the proposed transaction, such as names of affected parties, details regarding the transactions, each claim of exemption, if any, and reasoning in support of each such claim. Requests should be limited to the particular situation, and should not attempt to include every possible type of situation which may arise in the future;
      C) A discussion of current statutes, rules and legal principles relevant to the facts set forth;
      D) A statement setting forth the person's own opinion in the matter and the basis for such opinion; and
      E) A representation that the transaction in question has not been commenced and will not commence for at least 10 business days.
   2) The Securities Department will not respond to requests for non-binding statements involving the anti-fraud provisions of the Act or the Rules thereunder.

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

3) The Securities Department will not respond to requests for non-binding statements with respect to transactions which have already taken place.
4) The Securities Department will not respond to requests based upon hypothetical facts or involving unnamed parties.

b) Review procedure.
1) The Securities Department's review of requests for non-binding statements may require an in-depth examination of the information presented and the applicable law. Therefore a considerable time period may elapse before the statement is issued.
2) After a review of the relevant facts are presented, in light of existing judicial, legislative and administrative history, the Securities Department may issue its finding as to the applicability of the Act to the situation presented in the form of a non-binding statement stating that it will recommend that no enforcement action be initiated against the parties involved if all the facts are true and complete. Facts or conditions different than those presented may require different conclusions and persons other than those requesting the statement should not rely on the statement.

c) Availability of non-binding statements issued by the Department.
1) The Securities Department will maintain a chronological index by statutory Section(s) involving all non-binding statements issued.
2) Copies of such statements may be reviewed in the Securities Department's Springfield office and copies thereof obtained upon payment of the cost of duplication as set forth in Section 140.2110 of this Part.

SUBPART H: RULES OF GENERAL APPLICATION

Section 140.2100 Business Hours of the Securities Department
EMERGENCY

a) The principal office of the Securities Department at Lincoln Tower, 520 South Second Street, Suite 200, Springfield, Illinois 62701, is open each day, except Saturdays, Sundays and holidays, from 8:00 a.m. to 4:30 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Springfield.

b) An office of the Securities Department at 17 N. State, Suite 1100, Chicago, Illinois 60602 is open each day, except Saturdays, Sundays and holidays, from 8:30 a.m. to 5:00 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Chicago.

Section 140.2101 Computation of Time
EMERGENCY

The time within which an act under The Illinois Business Brokers Act of 1995,

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

[815 ILCS 307] shall be done shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday or holiday as defined or fixed in any Statute now or hereafter in force in this State, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday is also a Saturday, Sunday or holiday, then such succeeding day shall also be excluded.

Section 140.2110 Payment of Fees
EMERGENCY

a) Fees under the Act are as follows:

Section 10-10 Filing, Examination and Registration Fee	$200	(plus $50 for each person who is engaged in business brokering on behalf of the business brokerage firm in excess of two)
Branch Office Fee	$20	(if in excess of 2 branch offices in this State)
Section 10-20 Renewal Filing and Examination Fee	$200	(plus $50 for each person who is engaged in business brokering on behalf of the business brokerage firm in excess of two)
Renewal Branch Office Fee	$20	(if in excess of 2 branch offices in this State)
Renewal Late Fee	$100	(if the renewal application is filed within 29 days preceding the expiration of the current registration)
Business Broker Fee to report a change in its form of organization	$20	
Service of Process (when served upon the Secretary)	$10	

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

Section 10-50	
Certificate	$10
Certified Copy of Document	$10 plus
Each Page Certified	$ .50
Non-binding statement	$75
Duplication of documents each page duplicated	$ .50
Additional fee for payment of fee returned to the Securities Department due to insufficient funds or for a similar reason	$50

b) All payments of fees, except for payment of administrative fines under Section 10-55 of the Act as set forth below, shall be made by check, money order, United States postal money order, certified check, bank cashier's check, bank money order or indicia of forms of electronic transfer of funds payable to the "Secretary of State". No third party check or money order endorsed over to the Secretary of State shall be accepted as payment of any fee. All payments for administrative fines under Section 10-55 of the Act, except for a person registered under Section 10-10 of the Act, shall be made by United States postal money order, certified check or bank cashier's check.

c) Any person whose payment of fees is returned to the Securities Department due to insufficient funds or for a similar reason shall pay to the Secretary of State the amount of fee owed plus an additional fee as set forth in this Section for each payment returned. This fee shall include the fee required by 5 ILCS 290/10, as defined in Section 140.51 of this Part.

d) The Secretary of State shall require any person to make payment of fees in the form of a United States postal money order, certified check, bank cashier's check or bank money order if any previous payment of fees has been returned to the Securities Department due to insufficient funds or for a similar reason.

Section 140.2120 Place of Filing
EMERGENCY

All applications for registration or exemption from registration and other papers filed with the Securities Department or the Secretary of State pursuant to the Act shall be filed at Springfield, Illinois. Such material may be filed by delivery to the Securities Department, through the mails or otherwise.

Section 140.2130 Date of Filing
EMERGENCY

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

a) The date of filing of any document required to be filed with the Securities Department shall be the date of delivery of the document and any required fee to the Securities Department in Springfield, Illinois, as specified in Section 140.2120 of this Part, or if a document or fee is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Postal Service of such registration, certification or certificate shall be considered competent evidence that the document or fee was mailed on the date shown on the record.

b) A document may not be deemed to be filed with the Secretary of State unless all requirements of the Act with respect to such filing have been complied with and the required fee has been paid.

Section 140.2140 Requirements as to Proper Form
EMERGENCY

Any document filed with the Securities Department pursuant to the Act shall be prepared in accordance with the form, if any, prescribed therefor by the Securities Department as in effect on the date of filing. Any such document shall be deemed to be filed on the proper form unless objection to the form is made by the Securities Department.

Section 140.2141 Additional Information
EMERGENCY

In addition to the information expressly required to be included in an application for registration, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

Section 140.2142 Additional Exhibits
EMERGENCY

The registrant may file such exhibits as it may desire in addition to those required by the appropriate form. The exhibits shall be so marked as to indicate clearly the subject matters to which they refer.

Section 140.2143 Information Unknown or Not Reasonably Available
EMERGENCY

Information required need be given only insofar as it is known or reasonably available to the registrant. If any required information is unknown and not reasonably available to the registrant, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the registrant, the information may be omitted, subject to the following conditions:

a) The applicant or registrant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense,

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

together with the sources thereof.

b) The applicant or registrant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to the person for the information.

Section 140.2144 Requirements as to Paper, Printing, and Language
EMERGENCY

a) Application for registration shall be filed on good quality, unglazed, white paper, 8 1/2 by 11 inches in size, insofar as practicable. However, tables, charts, maps, and financial statements may be on larger paper, if folded to that size, and the prospectus may be on smaller paper, if the registrant so desires, but not less than 7 1/2 by 9 inches in size.

b) The application for registration and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the application or any portion thereof may be prepared by any similar process which, in the opinion of the Secretary of State, produces copies suitable for permanent record. Irrespective of the process used, all copies of the material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated to be clearly distinguishable as such on photocopies.

c) The application for registration shall be in the English language. If any exhibit or other paper or document filed with the application for registration is in a foreign language, it shall be accompanied by a translation into the English language.

Section 140.2145 Number of Copies -- Signatures
EMERGENCY

a) One copy of the completed application for registration, manually signed by the applicant, including exhibits and all other papers and documents filed as a part of the application, shall be filed with the Secretary of State.

b) If any name is signed to the application for registration pursuant to a power of attorney, copies of the power of attorney shall be filed with the application for registration. In addition, if the name of any officer signing on behalf of the applicant, or attesting the applicant's seal, is signed pursuant to a power of attorney, certified copies of a resolution of the applicant's board of directors authorizing the signature shall be filed with the application for registration.

Section 140.2190 Provisions for Granting of Variance from Rules

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

EMERGENCY

The Secretary of State or his or her designee may grant variances from these Rules in individual cases where he or she determines that:

a) The provision from which the variance is granted is not statutorily mandated;

b) No party will be injured by granting the variance; and

c) The Rule from which the variance is granted would, in the particular case, be unnecessarily burdensome.

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

1) Heading of the Part: Regulations under the Illinois Loan Brokers Act of 1995.

2) Code Citation: 14 Ill. Adm. Code 145

3) Section Numbers: Emergency Action:

145.50	New
145.400	New
145.1000	New
145.1200	New
145.2100	New
145.2101	New
145.2120	New
145.2130	New
145.2140	New
145.2141	New
145.2143	New
145.2144	New
145.2145	New
145.2190	New

4) Statutory Authority: 815 ILCS 175

5) Effective Date of Rule(s): January 1, 1996

6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: N/A

7) Date Filed in Agency's Principal Office: December 22, 1995

8) Reason for Emergency: The Act creates regulation of Loan Brokers in the State of Illinois. The Act provides for the registration of Loan Brokers effective January 1, 1996.

The Department through the legislative process worked with all known entities through the Secretary of State's Securities Advisory Committee, industry associations and law firms. A copy of the Act, emergency rules and registration forms have been mailed to industry groups and any other person requesting copies.

9) A Complete Description of the Subjects and Issues Involved:

Section 145.050 - Added to define terms in the Act and Rules.

Section 145.400 - Added to define procedures for Hearings.

Section 145.1000 - Added to define procedure for Service of Process.

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

Section 145.1200 - Added to define procedure for request for non-binding statements.

Section 145.2100 - Added to define business hours of Securities Department.

Section 145.2101 - Added to define computation of time.

Section 145.2110 - Added to define payment of fees.

Section 145.2120 - Added to define place of filing.

Section 145.2130 - Added to define date of filing.

Section 145.2140 - Added to define requirements as to proper form.

Section 145.2141 - Added to define additional information.

Section 145.2143 - Added to define information unknown or not reasonably available.

Section 145.2144 - Added to define requirements as to paper, printing and language.

Section 145.2145 - Added to define number of copies -- signatures.

Section 145.2190 - Added to define provisions for granting variances from Rules.

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objectives: To enact by emergency the provisions of the Illinois Loan Brokers Act of 1995.

12) Information and questions regarding this rule shall be directed to:

Michael A. Chizmar
Lincoln Tower, Suite 200
520 South Second Street
Springfield, IL 62701
(217) 782-2256

The full text of the Emergency Rulemaking begins on the next page:

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATE

PART 145
REGULATIONS UNDER THE ILLINOIS LOAN BROKERS ACT OF 1995

SUBPART A: DEFINITIONS

Section
145.50 Definitions of Terms as Used in the Act and the Rules
EMERGENCY

SUBPART B: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section
145.400 Hearings
EMERGENCY

SUBPART C: SERVICE OF PROCESS

Section
145.1000 Service of Process upon the Secretary of State
EMERGENCY

SUBPART D: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section
145.1200 Request for Non-Binding Statements
EMERGENCY

SUBPART E: RULES OF GENERAL APPLICATION

Section
145.2100 Business Hours of the Securities Department
EMERGENCY
145.2101 Computation of Time
EMERGENCY
145.2110 Payment of Fees
EMERGENCY
145.2120 Place of Filing
EMERGENCY
145.2130 Date of Filing
EMERGENCY
145.2140 Requirements as to Proper Form
EMERGENCY

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

145.2141 Additional Information
EMERGENCY
145.2143 Information Unknown or Not Reasonably Available
EMERGENCY
145.2144 Requirements as to Paper, Printing, and Language
EMERGENCY
145.2145 Number of Copies--Signatures
EMERGENCY
145.2190 Provisions for Granting of Variance from Rules
EMERGENCY

AUTHORITY: Implementing and authorized by the Illinois Loan Brokers Act of 1995 [815 ILCS 175].

SOURCE: Adopted by emergency rulemaking at 20 Ill. Reg. 629, effective January 1, 1996, for a maximum of 150 days.

SUBPART A: DEFINITIONS

Section 145.50 Definitions of Terms as Used in the Act and the Rules
EMERGENCY

a) As used in this Part, unless the context otherwise requires, the term:

"Act" means the Illinois Loan Brokers Act of 1995 [815 ILCS 175] and this Part.

"Date of filing" means the date that all of the required documents are received by the Securities Department and all the required fees are paid to the Secretary of State. A document shall not be deemed to be filed if any information required by the Act is omitted or the document is illegible.

"Federal Banking Act of 1933" means the Federal Banking Act of 1933 (12 U.S.C. 227), and the Rules and Regulations thereunder as in effect on July 1, 1989.

"Interest" as delineated in Section 15-60 of the Act means the rate of interest set forth in 815 ILCS 205.

"Loan Broker" does not mean or include any person authorized to do business under the Residential Mortgage License Act of 1987 or exempt from licensure as provided for in the Residential Mortgage License Act of 1987 or any person authorized to do business in Illinois and regulated by the Commissioner of Savings, Real Estate Professionals and Mortgage Finance, also known as the Commissioner of Savings and Residential Finance.

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

"Material" when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which there is a substantial likelihood that a reasonable person would consider it important.

"Secretary of State" means the Securities Department of the Office of the Secretary of State or the Secretary of State or the Securities Director or his or her designee, as the case may be.

b) A Section in this Part which defines a term without express reference to the Act or to this Part or to a portion thereof or hereof defines such term for all purposes as used both in the Act and in this Part. Terms defined in the Act and not defined in this Part have the meanings given them in the Act.

SUBPART B: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section 145.400 Hearings
EMERGENCY

Any hearing required pursuant to the Act or by this Part shall be held pursuant to 14 Illinois Administrative Code, Ch. I, Part 130, Subpart K: Procedures for Administrative Hearings.

SUBPART C: SERVICE OF PROCESS

Section 145.1000 Service of Process upon the Secretary of State
EMERGENCY

a) Any process, notice or demand to be served upon the Secretary of State under the Act shall be made by delivering personally to the Securities Director, or any employee of the Securities Department designated by the Securities Director to accept such service on behalf of the Secretary of State, or by sending by registered mail or certified mail, return receipt requested, a copy of the process, notice or demand to the Securities Department. Procedures for service are specified in the Act in the following Sections:
   1) Service upon any person who has filed a consent to service of process upon the Secretary of State;
   2) Service upon any person who, by virtue of acting as a loan broker in this State which are neither registered nor covered by an exemption from registration, shall have appointed the Secretary of State as agent for service of process; and
   3) Service of a copy of a complaint in a private civil action.

b) Service of any process, notice or demand under this Section shall be made with the Springfield office of the Securities Department during regular business hours as specified in Section 145.2100 of this Part.

c) At the time of any service upon the Secretary of State there shall be

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

paid a fee in the amount specified in Section 145.2110 of this Part, which shall not be returnable in any event. Each process, notice or demand shall be submitted with a separate payment.

d) The Securities Department shall keep a record of all the processes, notices and demands received by it, which shall show the date of service.

SUBPART D: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section 145.1200 Request for Non-Binding Statements
EMERGENCY

a) Required information and format.
   1) All requests for non-binding statements shall be in writing and be accompanied by the fee set forth in Section 145.2110 of this Part. The request shall be filed with the Securities Department and shall contain the following:
      A) A brief summary of the Sections of the Act and of the Rules to which the request pertains;
      B) A detailed factual representation concerning every relevant aspect of the proposed transaction, such as names of affected parties, details regarding the transactions, each claim of exemption, if any, and reasoning in support of each such claim. Requests should be limited to the particular situation, and should not attempt to include every possible type of situation which may arise in the future;
      C) A discussion of current statutes, rules and legal principles relevant to the facts set forth;
      D) A statement setting forth the person's own opinion in the matter and the basis for such opinion; and
      E) A representation that the transaction in question has not been commenced and will not commence for at least 30 days.
   2) The Securities Department will not respond to requests for non-binding statements involving the anti-fraud provisions of the Act or the Rules thereunder.
   3) The Securities Department will not respond to requests for non-binding statements with respect to transactions which have already taken place.
   4) The Securities Department will not respond to requests based upon hypothetical facts or involving unnamed parties.

b) Review procedure under the Act.
   1) The Securities Department's review of requests for non-binding statements may require an in-depth examination of the information presented and the applicable law. Therefore a considerable time period may elapse before the statement is issued.
   2) After a review of the relevant facts are presented, in light of existing judicial, legislative and administrative history, the Securities Department may issue its finding as to the

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

applicability of the Act to the situation presented in the form of a non-binding statement stating that it will recommend that no enforcement action be initiated against the parties involved if all the facts are true and complete. Facts or conditions different than those presented may require different conclusions and persons other than those requesting the statement should not rely on the statement.

c) Availability of non-binding statements issued by the Department.
   1) The Securities Department will maintain a chronological index by statutory Section(s) involving all non-binding statements issued.
   2) Copies of such statements may be reviewed in the Securities Department's Springfield office and copies thereof obtained upon payment of the cost of duplication as set forth in Section 145.2110 of this Part.

SUBPART E: RULES OF GENERAL APPLICATION

Section 145.2100 Business Hours of the Securities Department
EMERGENCY

a) The principal office of the Securities Department at Lincoln Tower, 520 South Second Street, Suite 200, Springfield, Illinois 62701, is open each day, except Saturdays, Sundays and holidays, from 8:00 a.m. to 4:30 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Springfield.

b) An office of the Securities Department at 17 North State Street, Suite 1100, Chicago, Illinois 60601 is open each day, except Saturdays, Sundays and holidays, from 8:30 a.m. to 5:00 p.m. Central Standard Time or Central Daylight Savings Time, whichever is currently in effect in Chicago.

Section 145.2101 Computation of Time
EMERGENCY

The time within which an act under the Illinois Loan Broker Act of 1995, [815 ILCS 175/15] shall be done shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday or holiday as defined or fixed in any Statute now or hereafter in force in this State, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday is also a Saturday, Sunday or holiday, then such succeeding day shall also be excluded.

Section 145.2110 Payment of Fees
EMERGENCY

a) Fees under this Act are as follows:

Section 15-15

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

Application Filing Fee	$300
Examination Fee	$50
Registration Fee	$10
Section 15-20	
Renewal Application filing Fee	$300
Examination Fee	$50
Section 15-25	
Fee for the failure to file or file timely any required document or information	$250
Fee for each subsequent failure to file or file timely any required document or information	$500
Service of Process (when served) upon the Secretary of State)	$10
Section 15-50	
Certificate	$10
Certified Copy of Document	$10 plus
Each Page Certified	$ .50
Non-Binding Statement	$75
Duplication of documents each page duplicated	$ .50
Additional fee for payment of fee returned to the Securities Department due to insufficient funds or for a similar reason	$50

b) All payments of fees, except for payment of administrative fines under Section 15-55 of the Act as set forth below, shall be made by check, money order, United States postal money order, certified check, bank cashier's check, bank money order or indicia of forms "Secretary of State". No third party check or money order endorsed over to the Secretary of State shall be accepted as payment of any fee. All payments for administrative fines under Section 15-55 of the Act shall be made by United States postal money order, certified check or bank cashier's check.

c) Any person whose payment of fees is returned to the Securities Department due to insufficient funds or for a similar reason shall pay to the Secretary of State the amount of fee owed plus an additional fee as set forth in this Section for each payment returned. This fee shall include the fee required by 5 ILCS 290/10, as defined in

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

Section 145.50 of this Part.

d) The Secretary of State shall require any person to make payment of fees in the form of a United States postal money order, certified check, bank cashier's check or bank money order if any previous payment of fees has been returned to the Securities Department due to insufficient funds or for a similar reason.

Section 145.2120 Place of Filing
Emergency

All applications for registration or exemption from registration and other papers filed with the Securities Department or the Secretary of State pursuant to the Act shall be filed at Springfield, Illinois. Such material may be filed by delivery to the Securities Department, through the mails or otherwise.

Section 145.2130 Date of Filing
EMERGENCY

a) The date of filing of any document required to be filed with the Securities Department shall be the date of delivery of the document and any required fee to the Securities Department in Springfield, Illinois, as specified in Section 145.2120 of this Part, or if a document or fee is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Postal Service of such registration, certification or certificate shall be considered competent evidence that the document or fee was mailed on the date shown on the record.

b) A document may not be deemed to be filed with the Secretary of State unless all requirements of the Act with respect to such filing have been complied with and the required fee has been paid.

Section 145.2140 Requirements as to Proper Form
EMERGENCY

Any document filed with the Securities Department pursuant to the Act shall be prepared in accordance with the form, if any, prescribed therefor by the Securities Department as in effect on the date of filing. Any such document shall be deemed to be filed on the proper form unless objection to the form is made by the Securities Department.

Section 145.2141 Additional Information
EMERGENCY

In addition to the information expressly required to be included in an application for registration, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

Section 145.2143 Information Unknown or Not Reasonably Available
EMERGENCY

Information required need be given only insofar as it is known or reasonably available to the registrant. If any required information is unknown and not reasonably available to the applicant or registrant, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the applicant or registrant, the information may be omitted, subject to the following conditions:

a) The applicant or registrant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof.

b) The applicant or registrant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to the person for the information.

Section 145.2144 Requirements as to Paper, Printing, and Language
EMERGENCY

a) Application for registration shall be filed on good quality, unglazed, white paper, 8 1/2 by 11 inches in size, insofar as practicable.

b) The application for registration and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the application or any portion thereof may be prepared by any similar process which, in the opinion of the Secretary of State, produces copies suitable for permanent record. Irrespective of the process used, all copies of the material shall be clear, easily readable and suitable for repeated photocopying.

c) The application for registration shall be in the English language. If any exhibit or other paper or document filed with the application for registration is in a foreign language, it shall be accompanied by a translation into the English language.

Section 145.2145 Number of Copies--Signatures
EMERGENCY

a) One copy of the completed application for registration, manually signed by the applicant, including exhibits and all other papers, if any, and documents filed as a part of the application, shall be filed with the Securities Department.

b) If any name is signed to the application for registration pursuant to a power of attorney, a copy of the power of attorney shall be filed with the application for registration. In addition, if the name of any officer signing on behalf of the applicant, or attesting the

SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

applicant's seal, is signed pursuant to a power of attorney, a copy of a resolution of the applicant's board of directors authorizing the signature shall be filed with the application for registration.

Section 145.2190 Provisions for Granting of Variance from Rules
EMERGENCY

The Secretary of State or his or her designee may grant variances from these Rules in individual cases where he or she determines that:

a) the provisions from which the variance is granted is not statutorily mandated;
b) no party will be injured by granting the variance; and
c) the Rule from which the variance is granted would, in the particular case, be unnecessarily burdensome.

DEPARTMENT OF STATE POLICE

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Sex Offender Registration Act

2) Code Citation: 20 Ill. Adm. Code 1280

3)

Section Numbers:	Proposed Action:
1280.10	Amendment
1280.20	Amendment
1280.30	Amendment
1280.40	Amendment

4) Statutory Authority: Implementing and authorized by Section 4 of the Sex Offender Registration Act [730 ILCS 150/4] and authorized by Section 55a of the Civil Administrative Code of Illinois [20 ILCS 2605/55a].

5) Effective Date of Amendment: January 1, 1996

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which they expire: Not applicable.

7) Date Filed in Agency's Principal Office: December 12, 1995

8) Reason for Emergency: Amendments to the Sex Offender Registration Act will become effective January 1, 1996. The changes require modification of procedures in order to fully effectuate the intent of the Act.

9) A Complete Description of the Subjects and Issues Involved: Incorporates provisions of the amended Sex Offender Registration Act which include the addition of several qualifying offenses and include all sex offenders regardless of the victim's age. Includes addition of a Sex Offender Notification Form which provides positive notification and evidence thereof to convicted sex offenders regarding their responsibilities under the Act. Changes the manner in which records are submitted to the Department from a manual system to an automated system using the Law Enforcement Agencies Data System (LEADS), which closely follows existing law enforcement procedures.

10) Are there any proposed amendments to this Part Pending? No

11) Statement of Statewide Policy Objectives: These amendments will not require local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

12) Information and questions regarding these amendments shall be directed to:

James W. Redlich
Chief Legal Counsel
Illinois State Police

DEPARTMENT OF STATE POLICE

NOTICE OF EMERGENCY AMENDMENT

102 Armory Building
P.O. Box 19461
Springfield, IL 62794-9461
(217) 782-7658

The full text of the emergency amendments begins on the next page:

DEPARTMENT OF STATE POLICE

NOTICE OF EMERGENCY AMENDMENT

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
CHAPTER II: DEPARTMENT OF STATE POLICE

PART 1280
~~HABITUAL-CHILD~~ SEX OFFENDER REGISTRATION ACT

SUBPART A: PROMULGATION

Section
1280.10 Purpose
EMERGENCY
1280.20 Definitions
EMERGENCY

SUBPART B: OPERATIONS

Section
1280.30 Procedures
EMERGENCY
1280.40 Requirements
EMERGENCY

AUTHORITY: Implementing and authorized by Section 4 of the Sex Offender Registration Act [730 ILCS 150/4] and authorized by Section 55a of the Civil Administrative Code of Illinois [20 ILCS 2605/55a].

SOURCE: Adopted at 12 Ill. Reg. 8458, effective May 3, 1988; emergency amendments at 20 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. _____, effective JAN 01 1996.

SUBPART A: PROMULGATION

Section 1280.10 Purpose
EMERGENCY

The purpose of this Part is to provide requirements and procedures for the registration of ~~habitual-child~~ sex offenders.

(Source: Emergency amendment at 19 Ill. Reg. _____, effective January 1, 1996, for a maximum of 150 days)

Section 1280.20 Definitions
EMERGENCY

a) Unless specified otherwise, all terms shall have the meanings set forth in the ~~Habitual-Child~~ Sex Offender Registration Act.
b) For purposes of these rules, the following definitions apply:

"Act": The ~~Habitual--Child~~ Sex Offender Registration Act [730 ILCS

DEPARTMENT OF STATE POLICE

NOTICE OF EMERGENCY AMENDMENT

150] ~~(Ill.-Rev.-Stat.-1986-Supp.,-ch.-38,-par.-221-et-seq.)~~.

"Conviction": One or more convictions which result from or are connected with the same act, or result from offenses committed at the same time; such convictions shall be counted as one conviction.

"Department": The Illinois Department of State Police and any of its subdivisions.

"Place of confinement": Any person, hospital or other institution or facility where a ~~habitual-child~~ sex offender may be confined due to conviction for a sex offense or a person who may be confined as a sexually dangerous person under the Sexually Dangerous Persons Act.

"Sex Offender Notification Form": Form designed by the Department to be used to notify the sex offender of the responsibility to register.

"~~Habitual-Child~~ Sex Offender Registration ~~Act~~ Form": Form designed by the Department ~~of-State-Police~~ to be used to satisfy the registration requirements of the Act.

(Source: Emergency amendment at 19 Ill. Reg. 685, effective January 1, 1996, for a maximum of 150 days)

SUBPART B: OPERATIONS

Section 1280.30 Procedures
EMERGENCY

a) Place of Confinement
   1) A ~~habitual-child~~ sex offender, prior to the release from a place of confinement, shall be notified ~~informed~~ by the place of confinement of the duty to register under the Act. The offender shall also be required to read and sign a completed ~~Habitual Child~~ Sex Offender Notification ~~Registration~~ Form.
   2) The place of confinement shall give one copy of the completed Sex Offender Notification Form ~~form~~ to the offender, keep the original for their record and ~~shall~~ send a ~~two-copies,-along-with~~ photograph ~~and--fingerprints~~ of the offender~~,~~ to the Department. ~~The-Department-shall-send-one-copy-to-the-law-enforcement--agency having-jurisdiction.~~
   3) The Illinois Department of Corrections (IDOC) shall share with the Department electronic data files containing all sex offenders being released from IDOC facilities.

b) Court
   1) The court shall ensure a ~~A-habitual-child~~ sex offender, released on probation or discharged upon payment of a fine as a result of a conviction for a sex offense or an attempted sex offense, shall

DEPARTMENT OF STATE POLICE

NOTICE OF EMERGENCY AMENDMENT

be informed ~~by-the-court~~ of the duty to register under the Act. The offender shall also be required to read and sign a completed ~~Habitual-Child~~ Sex Offender Notification ~~Registration-Act~~ Form.
   2) The court shall ensure ~~give~~ one copy of the completed Sex Offender Notification Form is given ~~form~~ to the offender and the original is maintained in the court file ~~shall-send--two--copies,-along--with--photograph--and-fingerprints-of-the-offender,-to-the Department~~. The Department shall ensure ~~send-one-copy-to~~ the law enforcement agency having jurisdiction is provided offender notification data.

c) Agency of Jurisdiction
   1) The agency of jurisdiction will complete the Sex Offender Registration Form; ensure the offender reads and signs the form, provide one copy of the form to the offender, keep the original signed copy until the requirement to register has expired, and, within three days, enter registration information in the Law Enforcement Agencies Data System (LEADS); and forward a copy of the offender's photograph to the Department.
   2) The agency of jurisdiction shall record contacts with convicted sex offenders into LEADS as an add-on record.

d)~~c~~) Change of Address
   A ~~habitual-child~~ sex offender, who changes residence address, shall within ten days after ~~of~~ the change so inform, in writing, the last law enforcement agency with whom registered. Within three days after ~~of~~ receiving notification, the law enforcement agency shall enter the notice of address change into LEADS ~~send-one--copy--of--the--completed Habitual--Child--Sex--Offender-Registration-Act-Form-to-the-Department and-one-copy-to-the-law-enforcement-agency-having-jurisdiction-of--the new-place-of-residence~~.

(Source: Emergency amendment at 19 Ill. Reg. 685, effective January 1, 1996, for a maximum of 150 days)

Section 1280.40 Requirements
EMERGENCY

a) Registration Period
   Any person required to register under the Act shall be required to register for a period of ten years after the conviction or adjudication if not confined to a penal institution, hospital or any other institution or facility, and if confined, for a period of ten years after parole, discharge or release from any such facility. Liability for registration terminates at the expiration of ten years from the date of conviction or adjudication if not confined to a penal institution, hospital or any other institution or facility, and if confined, at the expiration of ten years from the date of parole, discharge or release from any such facility, providing such person does not, during that period, again become liable to register under

DEPARTMENT OF STATE POLICE

NOTICE OF EMERGENCY AMENDMENT

the provisions of the Act. ~~An offender is required to register for a period of ten years after conviction or, if confined, for a period of ten years after parole, discharge or release from any place of confinement. Liability for registration terminates at the expiration of the ten years, providing the offender does not during that period again become liable to register under the provisions of this Act.~~

b) Confidentiality
Any information required by the ~~this~~ Act shall not be open to public inspection or to any person other than a law enforcement officer or other individual authorized by law.

c) ~~Habitual Child~~ Sex Offender Registration ~~Act~~ Form
The ~~Habitual Child~~ Sex Offender Registration ~~Act~~ Form shall contain all the information necessary to comply with the requirements of these rules and shall also provide descriptive information ~~(such as height, weight and age)~~ necessary to identify the person registering.

d) Sex Offender Notification Form
The Sex Offender Notification Form shall be used to notify the offender regarding responsibilities under the Act. The form shall contain descriptive information necessary to identify the person being notified. The form must be initialed and signed by the sex offender.

(Source: Emergency amendment at 19 Ill. Reg. 649, effective January 1, 1996, for a maximum of 150 days)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC HEARING ON PROPOSED RULEMAKING

1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3) Register Citation to Notice of Proposed Rulemaking: 19 Ill. Reg. 12966, September 15, 1995 (This rulemaking proposes a definition of the term "Financial Organization".)

4) Date, Time and Location of Public Hearing:

January 16, 1996
9:00 A.M. to 1:00 P.M.
State of Illinois Center - Room 9-040
100 West Randolph
Chicago, Illinois 60601

5) Other Pertinent Information: Persons interested in presenting testimony are advised that the Department will adhere to the following procedures in the conduct of the hearing:

1. Each person presenting oral testimony shall provide to the hearing officer a written (preferably typed) copy of such testimony at the time the oral testimony is presented. No oral testimony will be accepted without a written copy of the testimony being provided.

2. Each person presenting oral testimony will be limited to ten minutes for the presentation of such testimony.

3. No person will be recognized to speak for a second time until all persons wishing to testify have done so.

4. All testimony shall conclude at the specified time except that an individual presenting testimony at that time shall be allowed to complete the presentation.

6) Name and Address of Agency Contact Person: Questions regarding the public hearing or the proposed amendments may be directed to:

Keith Staats
Illinois Department of Revenue
Legal Services Office - Income Tax
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-7055

ILLINOIS AFFORDABLE HOUSING PROGRAM

NOTICE OF PUBLIC INFORMATION

ANNUAL PLAN OF THE ADVISORY COMMISSION

The Illinois Affordable Housing Act ([310 ILCS 65/1], the "Act") established the Illinois Affordable Housing Program (the "Program") to provide affordable housing to low and very low income persons and families. The Act established the Illinois Affordable Housing Trust Fund (the "Trust Fund") within which is deposited 50% of the collections from the State real estate transfer tax. The Trust Fund monies fund the Program.

Funds are distributed and made available under the Program through three subprograms. The Housing Trust Fund ("HTF") Program which has been in operation since the establishment of the Program provides subordinate gap financing or grants in a maximum amount of $500,000 per project. In 1994, the Authority created the Trust Fund Bond Multi-Family (TFB-MF) Program. The TFB-MF Program was created by leveraging Trust Fund monies to securitize and collateralize private taxable bond issues. Funds from the sale of the bonds are then used to provide first mortgage loans to eligible developers of multi-family developments.

The Act creates an Advisory Commission (the "Commission") to advise the Illinois Housing Development Authority (the "Authority") as to the operation of the Program. The Act provides that the Commission carry out certain responsibilities, including the development and publication of a plan. Section 17(a) of the Act requires the Commission to prepare and publish in the *Illinois Register* a plan which describes the available resources to the Program, the application process for the program, and the initial priorities for expenditure of the available resources. Pursuant to Section 17(a) of the Act, the Advisory Commission to the Illinois Affordable Housing Program has prepared the following plan:

I. Available Resources

Based on a review of the Program and projections by the Illinois Department of Revenue, the monies available to be spent on the Program in fiscal year 1996 shall be approximately $17 million. Of the total monies available, $5.4 million has been pledged to the TFB-MF Program.

II. Application Process

The applicant must first complete an application form created by the Authority. The application requests, among other things, the following information:

a. A general description of the proposed project.

b. The total number of units, total number of low and very low income units, units size and mix, and the respective rents or purchase prices to be charged.

ILLINOIS AFFORDABLE HOUSING PROGRAM

NOTICE OF PUBLIC INFORMATION

ANNUAL PLAN OF THE ADVISORY COMMISSION

c. A breakdown of the project budget's uses and sources.

d. A development plan which outlines the project's completion schedule and identifies the project's participants and anticipated funding sources.

e. The background, housing experience, and financial status of the applicant.

The Authority charges a $250 application fee which must accompany the HTF application. The fee for TFB-MF applications is $1,000.

After the applicant submits the application, the Authority will review it to determine whether the project, as proposed, satisfies the purposes and requirements of the Act and the Rules promulgated thereunder. The Authority will notify the applicant within approximately 30 days if the application fails to meet these requirements. If the application meets these basic requirements, the Authority staff, in cooperation with the applicant, will establish and obtain the additional information necessary to properly evaluate the project. The Authority staff will then analyze the project's feasibility. Based on this analysis, the Authority will make its recommendation to the Commission. The Commission will then be presented to the Authority's Board of Directors (the "Board") for approval consideration. Prior to the Board review, the Authority will notify parties interested in the application, including local officials, of the details of the project. Upon approval by the Board, the Authority staff will deliver a conditional commitment to the applicant.

III. Priorities

a. Priority should be given to those HTF applications which demonstrate that the applicant has explored and exhausted other available public and private resources.

b. Priority should be given to those projects which provide the best housing affordability for the longest period of time, with a goal of ensuring that some Trust Fund monies be directed to the lowest income population.

c. The Program should ensure an equitable distribution of Trust Fund monies across the State by establishing a goal of funding a proportionate number of units in the Chicago metropolitan area, other metropolitan areas and rural areas as compared to those areas' percentage of State population.

d. The Program should ensure that funding is provided for a proportionate number of units for the low and very low income special needs population as compared to the percentage that population represents of the State's low and very low income population.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Pursuant to 35 Ill. Adm. Code 302.Subpart F, the following water quality criteria have been derived as follows. This listing includes only the water quality criteria that have been used during the period August 1, 1995 through October 31, 1995.

A cumulative listing of criteria as of July 31, 1993 was published in 17 Ill. Reg. 18904, October 29, 1993. Listings of criteria used during subsequent three month periods were published in 18 Ill. Reg. 318, January 7, 1994; 18 Ill. Reg. 4457, March 18, 1994; 18 Ill. Reg. 8734, June 10, 1994; 18 Ill. Reg. 14166, September 9, 1994; 18 Ill. Reg. 17770, December 9, 1994; 19 Ill. Reg. 3563, March 17, 1995; 19 Ill. Reg. 7270, May 26, 1995; and 19 Ill. Reg. 12527, September 1, 1995.

Chemical: Acenaphthene
CAS #83-32-9
Acute criterion: 124 ug/l
Chronic criterion: 9.9 ug/l
Date criteria derived: November 14, 1991
Applicable waterbodies:

Not used during this period.

Chemical: Acetone
CAS #67-64-1
Acute criterion: 1,530 mg/l
Chronic criterion: 122 mg/l
Date criteria derived: May 25, 1993
Applicable waterbodies:

Not used during this period.

Chemical: Acetonitrile
CAS #75-05-8
Acute criterion: 375 mg/l
Chronic criterion: 30 mg/l
Date criteria derived: December 7, 1993
Applicable waterbodies:

Not used during this period.

Chemical: Acrylonitrile
CAS #107-13-4
Acute criterion: 910 ug/l
Chronic criterion: 73 ug/l
Human health criterion (HNC): 0.21 ug/l
Date criteria derived: November 13, 1991
Applicable waterbodies:

07120005-003/on Illinois River

Chemical: Anthracene
CAS #120-12-7
Human health criterion (HTC): 35 mg/l
Date criteria derived: August 18, 1993
Applicable waterbodies:

Not used during this period.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Benzene
CAS #71-43-2
Acute criterion: 5,200 ug/l
Chronic criterion: 416 ug/l
Human health criterion (HNC): 21 ug/l
Date criteria derived: August 15, 1990
Applicable waterbodies:

Not used during this period.

Chemical: Benzo(a)anthracene
CAS #56-55-3
Human health criterion (HNC): 0.01 ug/l
Date criteria derived: August 10, 1993
Applicable waterbodies:

07120005-003/on Illinois River

Chemical: Benzo(a)pyrene
CAS #50-32-8
Human health criterion (HNC): 0.01 ug/l
Date criteria derived: August 10, 1993
Applicable waterbodies:

07120005-003/on Illinois River

Chemical: Benzo(b)fluoranthene
CAS # 205-99-2
Human health criterion (HNC): 0.01 ug/l
Date criteria derived: August 10, 1993
Applicable waterbodies:

07120005-003/on Illinois River

Chemical: Benzo(k)fluoranthene
CAS #207-08-9
Human health criterion (HNC): 0.01 ug/l
Date criteria derived: August 10, 1993
Applicable waterbodies:

07120005-003/on Illinois River

Chemical: Carbon tetrachloride
CAS #56-23-5
Acute criterion: 3,500 ug/l
Chronic criterion: 280 ug/l
Human health criterion (HNC): 1.4 ug/l
Date criteria derived: June 18, 1993
Applicable waterbodies;

Not used during this period.

Chemical: Chlorobenzene
CAS #108-90-7
Acute criterion: 993 ug/l
Chronic criterion: 79 ug/l
Date criteria derived: December 11, 1991
Applicable waterbodies:

Not used during this period.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Chloroform CAS #67-66-3
Acute criterion: 1,870 ug/l Chronic criterion: 150 ug/l
Human health criterion (HNC): 130 ug/l
Date criteria derived: October 26, 1992
Applicable waterbodies:

Not used during this period.

Chemical: Chrysene CAS #218-01-9
Human health criterion (HNC): 0.01 ug/l
Date criteria derived: August 10, 1993
Applicable waterbodies:

07120005-003/on Illinois River

Chemical: 1,2-dichlorobenzene CAS #95-50-1
Acute criterion: 210 ug/l Chronic criterion: 16.8 ug/l
Date criteria derived: December 1, 1993
Applicable waterbodies:

Not used during this period.

Chemical: 1,3-dichlorobenzene CAS #541-73-1
Acute criterion: 500 ug/l Chronic criterion: 196 ug/l
Date criteria derived: July 31, 1991
Applicable waterbodies:

Not used during this period.

Chemical: 1,2-dichloroethane CAS #107-06-2
Acute criterion: 24,900 ug/l Chronic criterion: 4,540 ug/l
Human health criterion (HNC): 23 ug/l
Date criteria derived: March 19, 1992
Applicable waterbodies:

Not used during this period.

Chemical: 1,1-dichloroethylene CAS #75-35-4
Acute criterion: 3,030 ug/l Chronic criterion: 242 ug/l
Human health criterion (HNC): 0.95 ug/l
Date criteria derived: March 20, 1992
Applicable waterbodies:

Not used during this period.

Chemical: 2,4-dichlorophenol CAS #120-83-2
Acute criterion: 631 ug/l Chronic criterion: 83.1 ug/l
Date criteria derived: November 14, 1991
Applicable waterbodies:

Not used during this period.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: 1,2-dichloropropane CAS #78-87-5
Acute criterion: 4,800 ug/l Chronic criterion: 380 ug/l
Date criteria derived: December 7, 1993
Applicable waterbodies:

Not used during this period.

Chemical: 1,3-dichloropropylene CAS #542-75-6
Acute criterion: 99 ug/l Chronic criterion: 7.9 ug/l
Date criteria derived: November 13, 1991
Applicable waterbodies:

Not used during this period.

Chemical: 4,6-dinitro-o-cresol = 2-methyl-4,6-dinitrophenol
CAS #534-52-1
Acute criterion: 28.8 ug/l Chronic criterion: 2.3 ug/l
Date criteria derived: November 14, 1991
Applicable waterbodies:

07120005-003/on Illinois River

Chemical: 2,4-dinitrophenol CAS #51-28-5
Acute criterion: 85.3 ug/l Chronic criterion: 4.07 ug/l
Date criteria derived: December 1, 1993
Applicable waterbodies:

07120005-003/on Illinois River

Chemical: 2,6-dinitrotoluene CAS #606-20-2
Acute criterion: 1,910 ug/l Chronic criterion: 153 ug/l
Date criteria derived: February 14, 1992
Applicable waterbodies:

Not used during this period.

Chemical: Ethylbenzene CAS #100-41-4
Acute criterion: 216 ug/l Chronic criterion: 17.2 ug/l
Date criteria derived: August 15, 1990, revised May 17, 1991
Applicable waterbodies:

07120004-011/off Des Plaines River
07120004-007/off unnamed tributary to Melvina Ditch
07120004-016/off Salt Creek
07120006-002/off Fox River
07140101-015/off Mississippi River
07140202-002/off sewer to Town Creek

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Fluoranthene CAS #206-44-0
Human health criterion (HTC): 120 ug/l
Date criteria derived: August 10, 1993
Applicable waterbodies:

Not used during this period.

Chemical: Hexachlorobenzene CAS #118-74-1
Human health criterion (HNC): 0.00025 ug/l
Date criteria derived: November 15, 1991
Applicable waterbodies:

Not used during this period.

Chemical: Hexachlorobutadiene CAS #87-68-3
Acute criterion: 34.5 ug/l Chronic criterion: 2.76 ug/l
Date criteria derived: March 23, 1992
Applicable waterbodies:

07120005-003/on Illinois River

Chemical: Hexachloroethane CAS #67-72-1
Acute criterion: 381 ug/l Chronic criterion: 30.5 ug/l
Human health criterion (HNC): 2.9 ug/l
Date criteria derived: November 15, 1991
Applicable waterbodies:

Not used during this period.

Chemical: Isobutyl alcohol = 2-methyl-1-propanol
CAS #78-83-1
Acute criterion: 434 mg/l Chronic criterion: 34.8 mg/l
Date criteria derived: December 1, 1993
Applicable waterbodies:

Not used during this period.

Chemical: Methylene chloride CAS #75-09-2
Acute criterion: 17,200 ug/l Chronic criterion: 1,380 ug/l
Human health criterion (HNC): 340 ug/l
Date criteria derived: January 21, 1992
Applicable waterbodies:

Not used during this period.

Chemical: Methylethylketone CAS #78-93-3
Acute criterion: 322,000 ug/l Chronic criterion: 26,000 ug/l
Date criteria derived: July 1, 1992
Applicable waterbodies:

Not used during this period.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: 4-methyl-2-pentanone CAS #108-10-1
Acute criterion: 46 mg/l Chronic criterion: 3.68 mg/l
Date criteria derived: January 13, 1992
Applicable waterbodies:

Not used during this peirod.

Chemical: Naphthalene CAS #91-20-3
Acute criterion: 670 ug/l Chronic criterion: 68 ug/l
Date criteria derived: November 7, 1991
Applicable waterbodies:

Not used during this period.

Chemical: Nitrobenzene CAS #98-95-3
Acute criterion: 15.4 mg/l Chronic criterion: 4.67 mg/l
Human health criterion (HTC): 0.52 mg/l
Date criteria derived: February 14, 1992
Applicable waterbodies:

Not used during this period.

Chemical: Pentachlorophenol
Acute criterion: 20 ug/l Chronic criterion: 13 ug/l
Date criteria derived: national criterion, September 1986
Applicable waterbodies:

Not used during this period.

Chemical: Phenanthrene CAS #85-01-8
Acute criterion: 46 ug/l Chronic criterion: 3.7 ug/l
Date criteria derived: October 26, 1992
Applicable waterbodies:

07120005-003/on Illinois River

Chemical: Pyrene CAS #120-00-0
Human health criterion (HTC): 3,500 ug/l
Date criteria derived: December 22, 1992
Applicable waterbodies:

Not used during this period.

Chemical: Tetrachloroethylene CAS #127-18-4
Acute criterion: 1,220 ug/l Chronic criterion: 152 ug/l
Date criteria derived: March 23, 1992
Applicable waterbodies:

Not used during this period.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Tetrahydrofuran CAS #109-99-9
Acute criterion: 216,000 ug/l Chronic criterion: 17,300 ug/l
Date criteria derived: March 16, 1992
Applicable waterbodies:

Not used during this period.

Chemical: Toluene CAS #108-88-3
Acute criterion: 8,080 ug/l Chronic criterion: 646 ug/l
Date criteria derived: August 16, 1990, revised May 17, 1991 and January 26, 1993
Applicable waterbodies:

07120004-011/off	Des Plaines River
07120004-007/off	unnamed tributary to Melvina Ditch
07120004-016/off	Salt Creek
07120006-002/off	Fox River
07140101-015/off	Mississippi River
07140202-002/off	sewer to Town Creek

Chemical: 1,2,4-trichlorobenzene CAS #120-82-1
Acute criterion: 353 ug/l Chronic criterion: 69.2 ug/l
Date criteria derived: December 14, 1993
Applicable waterbodies:

Not used during this period.

Chemical: 1,1,1-trichloroethane CAS #71-55-6
Acute criterion: 4,910 ug/l Chronic criterion: 393 ug/l
Date criteria derived: October 26, 1992
Applicable waterbodies:

Not used during this period.

Chemical: 1,1,2-trichloroethane CAS #79-00-5
Acute criterion: 19,000 ug/l Chronic criterion: 3,540 ug/l
Human health criterion (HNC): 12 ug/l
Date criteria derived: December 13, 1993
Applicable waterbodies:

Not used during this period.

Chemical: Trichloroethylene CAS #79-01-6
Acute criterion: 11,700 ug/l Chronic criterion: 940 ug/l
Date criteria derived: October 23, 1992
Applicable waterbodies:

Not used during this period.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Xylenes CAS # 1330-20-7
Acute criterion: 1,500 ug/l Chronic criterion: 117 ug/l
Date criteria derived: August 23, 1990
Applicable waterbodies:

07120004-011/off	Des Plaines River
07120004-007/off	unnamed tributary to Melvina Ditch
07120004-016/off	Salt Creek
07120006-002/off	Fox River
07140101-015/off	Mississippi River
07140202-002/off	sewer to Town Creek

For additional information concerning these criteria or the derivation process used in generating them, please contact:

Bob Mosher
Illinois Environmental Protection Agency
Division of Water Pollution Control
2200 Churchill Road
Post Office Box 19276
Springfield, Illinois 62794-9276
217/782-3362

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of December 26, 1995 through January 2, 1996 and have been scheduled for review by the Committee at its January 23, 1996 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
2/1/96	Department of Professional Regulation, Environmental Health Practitioner Licensing Act (68 Ill Adm Code 1247)	9/8/95 19 Ill Reg 12593	1/23/96
2/3/96	Department of Professional Regulation, Illinois Athletic Trainers Practice Act (68 Ill Adm Code 1160)	11/3/95 19 Ill Reg 15161	1/23/96

Rules acted upon during the quarter of October 1 through December 31, 1995 are listed in the Issues Index by Title number, Part number and Issue number. For example, 32 Ill. Adm. Code 610 published in Issue 42 will be listed as 32-610-42. This Issues Index supplements the Sections Affected and Cumulative Indexes published in the October 13, 1995 Illinois Register (Issue 41), and includes rulemakings beginning in the January 5, 1996 Register (Vol. 20, No, 1). Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-7017.

PROPOSED
8-281-1
8-285-1
8-505-1
11-1320-47
11-1431-47
14-510-50
17-810-50
17-1090-41
20-103-46
20-107-1
20-801-51
20-1280-1
20-1770-45
23-1-50
23-175-41
23-185-41
23-3030-41
23-3040-51
32-505-1
32-609-43
32-610-42
35-211-48
35-212-48
35-218-1
35-219-41,1
35-366-1
35-807-41
35-810-42
35-811-41
35-816-41
38-110-50
38-180-50
38-190-50
38-205-50
38-399-45
38-1050-41
41-170-44
41-180-44
44-5000-45
50-916-46,48
50-930-43
50-2008-50
50-2801-41
56-250-44
56-350-51
56-2520-45
56-2765-48
56--5300-1
68-800-1
68-1160-44
68-1470-48
77-205-45
77-245-1
77-250-1
77-280-1
77-300-42,1
77-330-42,1
77-340-42,1
77-350-42,1
77-370-1
77-390-42,1
77-395-1
77-665-49
77-670-42
77-1400-1
77-2510-47
80-250-50
80-302-42
86-130-41,42,50
86-140-42,50
86-150-50
86-160-50
86-215-46
86-3000-45
89-104-45
89-112-41
89-140-42, 43,46,47,49,51
89-144-51
89-146-42
89-147-51
89-160-45
89-170-46,47,48
89-301-44
89-302-44,50
89-590-45,47
89-572-51
89-676-51
89-679-51
89-682-45
89-895R-46
92-107-52
92-171-52
92-172-52
92-173-52
92-177-52
92-178-52
92-179-52
92-180-52
92-1030-41
92-1040-41
92-1060-41

ADOPTED
2-1900-1
2-1901-1
8-25-1
8-65-52
8-85-1
8-90-1
8-110-1
8-116-1
8-600-1
11-301-44
11-303-44
11-304-44
11-305-44
11-306-44
11-307-44
11-309-44
11-310-44
11-406-44
11-407-44
11-408-44
11-409-44
11-421-44
11-440-44
11-502-52
11-1428-52
14-200-52
17-210-48
17-670-45
17-680-45
17-3035-45
20-415-45
20-1296-45
23-25-51
23-155-50
23-160-50
23-275-50
23-500R-51
32-350-50
35-211-44
35-810-41
38-1050-45
38-1070-1
38-1075-45
44-645R-48
44-655-49
44-675-48
44-950-46
44-950R-46
44-5040-42
50-951-52
50-1102-1
50-1104-1
50-2007-50
50-2011R-46
50-2012-41
50-2018-42
50-6602-46
56-2650-45
56-2770-1
59-132-49
68-1150-48
68-1270-48
68-1320-52
68-1380-48
68-1420-48
68-1450-50
68-1455-50
68-1480-48
77-2510-48
77-661-46
77-672-48
80-150-1
80-310-49,1
83-105-51
83-525-42
83-755-52
83-773-42
83-790-42
86-500-52
89-101-46
89-104-46
89-110-43
89-112-46
89-113-43
89-114-43
89-116-51
89-120-43
89-140-41,45,46, 50,
89-148-50
89-152-49
89-153-49
89-240-48
89-431-52
89-505-42
89-553-46
89-830-46
89-835-45
92-446-46
92-449-50
92-1010-49
92-1536-47

EMERGENCY
14-135-1
14-140-1
14-145-1
20-801-51
20-1280-1
56-2765-48

1996

EMERGENCY
(Cont.)
56-5300-1
77-245-1
77-250-1
77-280-1
77-300-1
77-330-1
77-340-1
77-350-1
77-370-1
77-390-1
77-395-1
77-670-42
77-1110-44
77-2510-43
89-104-45
89-112-44,47,49
89-117-40
89-140-42
89-160-45
89-170-44,47,49
89-302-50

PEREMPT.
8-125-42,46,51
80-310-43

WITHDRAWN
86-480-51

ILLINOIS REGISTER
ADMINISTRATIVE CODE ORDER FORM

PLEASE USE THIS FORM FOR ALL ORDERS OR TO NOTIFY US OF CHANGE OF ADDRESS
ALL ORDERS ARE PAYABLE IN ADVANCE OR BY VISA OR Discover
CHECKS AND/OR MONEY ORDERS ARE PAYABLE TO SECRETARY OF STATE

MICROFICHE SETS OF THE ILLINOIS REGISTER @$200.00 PER SET
__1977-1978 __1979 __1980 __1981 __1982 __1983 __1984 __1985 __1986
__1987 __1988 __1989 __1990 __1991 __1992__1993__1994

CUMULATIVE INDICES TO THE ILLINOIS REGISTER @$1.00 each:
__1981 __1982 __1983 __1984 __1985 __1986 __1987 __1988 __1989

SECTIONS AFFECTED INDICES TO THE ILLINOIS REGISTER @$1.00 each:
__1984 __1985 __1986 __1987 __1988 __1989

CUMULATIVE/SECTIONS AFFECTED INDICES @$5.00 each:
__1990 __1991 __1992 __1993

BACK ISSUES OF THE ILLINOIS REGISTER (current year only) @$10.00 each:

_____	_____	_____
(Volume Number)	(Issue Number)	(Issue Date)

ANNUAL SUBSCRIPTION TO THE ILLINOIS REGISTER @$290.00 (52 ISSUES)
____NEW ____RENEWAL

ANNUAL SUBSCRIPTION AND SUPPLEMENT TO THE ILLINOIS ADMINISTRATIVE CODE; PUBLISHED QUARTERLY @$290.00

_____	_____	_____	_____
(1994 Code & 2 Supplements)	(Quantity)	(1995 Supplements)	(Quantity)

TOTAL AMOUNT OF ORDER: $_____

___Check __Visa __Discover Card Number:_____
Expiration Date:_____ Signature_____

(IF CHANGE OF ADDRESS, PLEASE LIST THE OLD AND NEW ADDRESS:

_____
(NAME) (PLEASE TYPE OR PRINT)
_____
(ADDRESS)
_____

(CITY)	(STATE)	(ZIP CODE)	(TELEPHONE NUMBER)

GEORGE H. RYAN
SECRETARY OF STATE
Address:
Index Department
111 E. Monroe
Springfield, IL 62756